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1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 23-10063-shl

4 - - - - - x

5 In the Matter of:

6

7 GENESIS GLOBAL HOLDCO, LLC,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 September 6, 2023

17 2:10 PM

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20

21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ALIANNIA PERSAUD

Page 2

1 HEARING re Omnibus Hearing

2

3 HEARING re Doc. #663 Amended Notice Of Agenda

4

5 HEARING re Doc. #602 (Liens) Motion to Authorize / Debtors  
6 Motion for Entry of an Order (I) Authorizing the Debtors to  
7 Consent to Priming of the Debtors Liens on Certain Property  
8 and (II) Authorizing and Approving Procedures for the  
9 Debtors to Consent to the Priming or Release of Liens on  
10 Other De Minimis Assets

11

12 HEARING re Doc. #601 (Payroll Contract) Motion to Authorize  
13 / Debtors Motion for an Order Authorizing Holdco to Enter  
14 Into Payroll Contract, Incur Obligations Related to  
15 Employee Transfer and Granting Related Relief

16

17 HEARING re Doc. #659 (Scheduling Motion) Motion To Approve/  
18 Debtors Motion For Entry Of A Scheduling Order Concerning  
19 The Debtors Second Omnibus Objection (Substantive) To  
20 Claim Nos. 523, 526, 527, 981, 982 and 990

21

22 HEARING re Doc. #660 (Motion To Shorten Time) Motion To  
23 Shorten Time / Debtors Motion To Shorten The Notice Period  
24 For Debtors Motion For Entry Of A Scheduling Order  
25 Concerning The Debtors Second Omnibus Objection

Page 3

1 (Substantive) To Claim Nos. 523, 526, 527, 981, 982 and 990

2

3 HEARING re Doc. #574 (Exclusivity) Second Motion To Extend  
4 Exclusivity Period For Filing A Chapter 11 Plan And  
5 Disclosure Statement

6

7 HEARING re Doc. #603 (Status Conference Re: FTX Settlement)  
8 Motion To Approve Compromise / Genesis Debtors Motion  
9 Pursuant To Federal Rule Of Bankruptcy Procedure 9019(a) For  
10 Entry Of An Order Approving Settlement Agreement With FTX  
11 Debtors

12

13 HEARING re Doc. #529 First Application For Interim  
14 Professional Compensation For Cleary Gottlieb  
15 Steen & Hamilton LLP, Debtor's Attorney, Period: 1/19/2023  
16 To 5/31/2023, Fee: \$23,894,770.50, Expenses: \$256,085.65

17

18 HEARING re Doc. #516 First Application For Interim  
19 Professional Compensation For Moelis & Company LLC, Other  
20 Professional, Period: 1/19/2023 To 5/31/2023, Fee:  
21 \$600,000.00, Expenses: \$29,411.00

22

23 HEARING re Doc. #522 First Application For Interim  
24 Professional Compensation For Morrison Cohen  
25 LLP, Special Litigation And Enforcement Counsel To The

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1      **Debtors, Period: 1/19/2023 To 5/31/2023, Fee: \$933,249.00,**  
2      **Expenses: \$13,087.58**

3

4      **HEARING re Doc. #524 First Application For Interim**  
5      **Professional Compensation For M3 Advisory Partners, LP,**  
6      **Other Professional, Period: 4/1/2023 To 5/31/2023, Fee:**  
7      **\$448,737.00, Expenses: \$971. 93**

8

9      **HEARING re Doc. #527 First Application For Interim**  
10     **Professional Compensation For Alvarez & Marsal North**  
11     **America, LLC, Other Professional, Period: 1/20/2023 To**  
12     **5/31/2023, Fee: \$4,858,933.75, Expenses: \$46,875.63**

13

14     **HEARING re Doc. #523 First Application For Interim**  
15     **Professional Compensation For White & Case LLP, Counsel To**  
16     **The Official Committee Of Unsecured Creditors Period:**  
17     **2/10/2023 To 5/31/2023, Fee: \$7,759,595.00, Expenses:**  
18     **\$11,065.14**

19

20     **HEARING re Doc. #525 First Application For Interim**  
21     **Professional Compensation For Houlihan Lokey**  
22     **Capital, Inc., Investment Banker For The Official Committee**  
23     **of Unsecured Creditors, Period: 2/12/2023 To 5/31/2023, Fee:**  
24     **\$541,071.43, Expenses: \$12,832.54**

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1 HEARING re Doc. #561 First Application For Interim  
2 Professional Compensation For Berkeley Research Group, LLC  
3 As Financial Advisor To The Official Committee Of Unsecured  
4 Creditors, Period: 2/14/2023 To 5/31/2023, Fee:  
5 \$4,729,898.50, Expenses: \$3,624.20

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

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4 Attorneys for the Debtors

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8 BY: JANE VANLARE

9 LUKE A. BAREFOOT

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11 HOO RI KIM

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21 COLIN WEST

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2 Attorneys for the Ad Hoc Group

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9 Attorneys for Gemini Trust Company, LLC

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13 BY: ANSON B. FRELINGHUYSEN

14 ERIN DIERS

15 DUSTIN SMITH

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17 SULLIVAN & CROMWELL LLP

18 Attorneys for the FTX Debtors

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22 BY: BRIAN D. GLUECKSTEIN

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Page 8

1 WEIL, GOTSHAL & MANGES LLP

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6 BY: JESSICA LIOU

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8 LATHAM & WATKINS LLP

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15 CHRISTOPHER HARRIS

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19 UNITED STATES DEPARTMENT OF JUSTICE

20 Attorneys for the U.S. Trustee

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25 BY: TARA TIANTIAN

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1 BROWN RUDNICK LLP

2 Attorneys for the Ad Hoc Group of Unsecured Creditors

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6 BY: KENNETH AULET

7 TRISTAN AXELROD

8 MATT SAWYER

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1 | P R O C E E D I N G S

2 THE COURT: Good afternoon. This is Judge Sean  
3 Lane in the United States Bankruptcy Court for the Southern  
4 District of New York and we're here for 2:00 hearing in  
5 Genesis Global Holdco, LLC., a jointly administered Chapter  
6 11 case. And before we start, we'll get appearances  
7 starting with the Debtors.

8 MS. VANLARE: Good afternoon, Your Honor. Jane  
9 VanLare, Cleary Gottlieb Steen & Hamilton, on behalf of the  
10 Debtors. We also have Sean O'Neal, Luke Barefoot, and Ms.  
11 Hoo Ri Kim on as well.

12 THE COURT: All right, good afternoon. On behalf  
13 of the Official Committee of Unsecured Creditors.

14 MR. SHORE: Good afternoon, Your Honor. Chris  
15 Shore from White & Case, along with Phil Abelson and Colin  
16 West.

17 THE COURT: Good afternoon. On behalf of the Ad  
18 Hoc Group of Unsecured Claimants.

19 MR. SAZANT: Good afternoon, Your Honor. Jordan  
20 Sazant of Proskauer Rose on behalf of the Ad Hoc Group.

21 THE COURT: Good afternoon. On behalf of Gemini  
22 Trust Company.

23 MR. FRELINGHUYSEN: Good afternoon, Your Honor.  
24 Anson Frelinghuysen from Hughes Hubbard & Reed and I have my  
25 colleagues, Erin Diers and Dustin Smith as well.

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1           THE COURT: All right, good afternoon. On behalf  
2 of the FTX debtors.

3           MR. GLUECKSTEIN: Good afternoon, Your Honor.

4           Brian Glueckstein, Sullivan & Cromwell, on behalf of the FTX  
5 debtors.

6           THE COURT: Good afternoon. On behalf of Digital  
7 Currency Group.

8           MS. LIOU: Good afternoon, Your Honor. Jessica  
9 Liou from Weil, Gotshal & Manges, here on behalf of Digital  
10 Currency Group.

11          THE COURT: Good afternoon. On behalf of the  
12 Joint Liquidators of Three Arrows Capital.

13          MR. GOLDBERG: Good afternoon, Your Honor. Adam  
14 Goldberg of Latham & Watkins on behalf of the Joint  
15 Liquidators of Three Arrows Capital. I'm joined by my  
16 partner, Christopher Harris, along with my colleagues, Brett  
17 Neve and Nacif Taousse.

18          THE COURT: Good afternoon. On behalf of a group  
19 that identifies itself as the Fair Deal Group.

20          MR. AULET: Good afternoon, Your Honor. Kenneth  
21 Aulet of Brown Rudnick, and I'm joined by my colleagues,  
22 Tristan Axelrod and Matt Sawyer.

23          THE COURT: Good afternoon. On behalf of the  
24 United States Trustee's Office.

25          MS. TIANTIAN: Good afternoon, Your Honor. Tara

1 Tiantian for the U.S. Trustee.

2 THE COURT: All right, good afternoon. Of course,  
3 as is always the case with a hearing of this type, I have  
4 many pages of appearances and it would be unproductive to go  
5 through them all because a lot of folks are listening but  
6 don't intend to participate.

7 So at this point, I will throw it open to anybody  
8 else who wishes to make an appearance who has not yet done  
9 so. Going once, going twice. All right. Of course,  
10 somebody may not have chimed in because they're having  
11 technical issues in the wonderful virtual world in which  
12 we're holding this hearing or because they don't anticipate  
13 chiming in and something changes, so I can always take  
14 appearances later on if that need arises.

15 So with that, I do have a copy of the amended  
16 agenda that was filed setting forth matters that are on for  
17 today, a variety of uncontested matters and one contested  
18 matter on exclusivity, and then a status conference on some  
19 things, and so I'll turn it over to Debtors' counsel to  
20 start us off.

21 MS. VANLARE: Thank you, Your Honor. Jane  
22 VanLare, Cleary Gottlieb.

23 So as you mentioned, Your Honor, on the amended  
24 agenda, we have two uncontested matters, so we'd like to  
25 begin with those and Miss Kim will present those. We'd then

1 like to go slightly out of order and next go to the  
2 exclusivity extension motion. Mr. O'Neal will address that.  
3 Then we'll proceed to the Three Arrows Capital contested  
4 motions, that's the motion to shorten notice, that's Agenda  
5 Item No. 3, and the scheduling motion, Agenda Item No. 4,  
6 and those will be handled by Mr. Barefoot. And then we'd  
7 like to proceed to the status conference on the FTX matter,  
8 and then conclude with the fee applications.

9 THE COURT: All right. If I could suggest a  
10 slight tweak to that order, just because I think some of the  
11 status and some other things really go to the issues of  
12 exclusivity meaning what's actually going on in the case,  
13 what are we working on, what has progress made on, what's  
14 still outstanding.

15 So I thought at the very least it would be  
16 appropriate to deal with the status conference on the FTX  
17 settlement agreement and perhaps the other matters as well  
18 before Three Arrows Capital, for example, before dealing  
19 with exclusivity. I think exclusivity obviously should come  
20 before the fee applications, but that would be my suggestion  
21 just because we can, I think, have probably a more efficient  
22 argument on exclusivity by doing it in that fashion,  
23 probably just makes sense.

24 So if that's all right with you, I would just move  
25 that one item back a little bit and obviously, we'll make

1 sure to get to it.

2 MS. VANLARE: That's fine with us, Your Honor. As  
3 I understood it, so we'd like to after the uncontested  
4 matters proceed with the FTX status conference, then the  
5 Three Arrows Capital motions, and then exclusivity, followed  
6 by fee applications; is that right?

7 THE COURT: Yeah, that would be great. Thank you  
8 very much.

9 MS. VANLARE: Of course. With that, Your Honor,  
10 I'll pass it on to Miss Kim.

11 THE COURT: All right. Thank you very much. Miss  
12 Kim.

13 MS. KIM: Good afternoon, Your Honor.

14 THE COURT: Good afternoon.

15 MS. KIM: Hoo Ri Kim, Cleary Gottlieb Steen &  
16 Hamilton for the Debtors. I'll be presenting the two  
17 uncontested matters on the agenda.

18 The first motion is the motion for authorization  
19 for the Debtors to consent to the priming or release of  
20 their liens; it was filed at ECF No. 602. We filed two  
21 declarations with this motion, Your Honor: one from myself  
22 with the relevant pleadings in the File Storage Partners  
23 Chapter 11 proceeding, and another from the Debtors'  
24 financial advisor, Mr. Joseph Sciametta of Alvarez & Marsal.  
25 We'd ask that these declarations be admitted to the record,

1 Your Honor.

2 THE COURT: All right, thank you. Anybody have  
3 any objection to admitting those declarations for purposes  
4 of this motion? All right. Hearing no objection, they are  
5 received.

6 MS. KIM: Thank you, Your Honor. Prior to the  
7 petition date, the Debtors and Genesis Global Capital in  
8 particular have engaged in various lending activities. The  
9 borrowers were often other companies in the cryptocurrency  
10 industry, which has weathered industrywide turbulence  
11 recently.

12 And one of these borrowers was File Source  
13 Partners, which was a borrower of file coins under a master  
14 loan agreement with Genesis Global Capital and it has since  
15 filed for Chapter 11 proceedings in the United States  
16 Bankruptcy Court in the District of Delaware and has sought  
17 to obtain debtor-in-possession financing to fund their  
18 Chapter 11 cases.

19 As part of the DIP financing, FSP has sought to  
20 grant super priority liens on most of its assets to the DIP  
21 lender, including on the collateral pledge to Genesis under  
22 the master loan agreement between Genesis Global Capital and  
23 FSP. The FSP debtors have accordingly asked for Genesis  
24 Global Capital's consent to prime its lien, which would be  
25 void if this Court does not approve the motion.

1                   We negotiated an adequate protection package for  
2       any diminution of the value of the Genesis collateral as  
3       well, as further described in the pleadings.

4                   Note that the DIP lender to File Storage Partners  
5       is also the proposed buyer of the FSP assets and the sale  
6       was with the purchase price to include a credit bid of the  
7       outstanding DIP obligations and the assumed liabilities were  
8       to include all obligations of FSP under the Genesis master  
9       loan agreement. We understand that the sale has closed from  
10      the correspondence with counsel to the DIP lender and the  
11      buyer but seek this relief regardless in an abundance of  
12      caution.

13                  Your Honor will note that this is not the first  
14      time the Debtors have sought this kind of relief and Your  
15      Honor has already granted such relief for the Chapter 11  
16      proceedings of Cash Cloud at ECF No. 77 in this Court.

17                  So going forward for the orderly administration of  
18      similar issues, the Debtors have also proposed procedures  
19      for the priming or release of their liens in property with a  
20      di minimis value of less than \$2 million as of the petition  
21      date without seeking further relief from this Court,  
22      provided that the Debtors provide advance notice to counsel  
23      to the committee. The Debtors respectfully noted that  
24      providing such consent constitutes an ordinary course  
25      transaction, but nevertheless, request this Court's approval

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1 under Section 363(b) in an abundance of caution as well. We  
2 believe that granting consent to the priming of its lien is  
3 in the Debtors' sound business judgment.

4 The Debtors understand that debtor-in-possession  
5 financing was critical to the File Storage Partners debtor's  
6 cases and it would also enhance our recovery of the  
7 outstanding obligations under the loan to File Storage  
8 Partners. The proposed sale of assets to the DIP lender  
9 also contemplated the assumption of liabilities under the  
10 master loan agreement, so the Debtors believe that providing  
11 consent to the priming of its lien was in the best interest  
12 of the debtors and their stakeholders as it represents the  
13 best option for a value maximizing financing for File  
14 Storage Partners.

15 The Debtors also note that the proposed adequate  
16 protection package represents reasonable terms for a secured  
17 creditor in this situation.

18 The proposed procedures going forward, Your Honor,  
19 are also in the Debtors' sound business judgment. The  
20 Debtors noted that we've expended considerable resources  
21 while seeking authority to consent to the priming of its  
22 lien in favor of DIP facilities, such as in Cash Cloud and  
23 in this case, and it would be the most efficient and cost  
24 effective for the Court to grant this relief going forward.  
25 We believe that the relief requested protects the interest

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1 of the creditors and all parties-in-interest because we'll  
2 provide advance notice to the counsel to the committee and  
3 notice on the Court's docket in time for objections should  
4 anyone have any objections.

5 The Debtors have consulted with the committee  
6 about this motion, which has represented it has no  
7 objections, and we have received no formal objection to the  
8 motion otherwise.

9 Unless you have any questions, Your Honor, we  
10 would ask the Court to enter the proposed order filed with  
11 this motion.

12 THE COURT: All right. Thank you very much.

13 Anything from the committee?

14 MR. ABELSON: No, Your Honor. Apologies.

15 THE COURT: All right. Not at all. The buildup  
16 was bigger than the delivery. Anyone else who might wish to  
17 be heard on this motion? All right. Hearing no response, I  
18 am happy to grant the motion as appropriate under the facts  
19 and circumstances of the case and applicable law.

20 I find it's appropriate and consistent with the  
21 Bankruptcy Code, including Section 363(c), and just  
22 generally makes sense for the Debtors, and I believe the  
23 procedures going forward also make sense. As you said, this  
24 is not the first time we've had that discussion. I think I  
25 handled the Cash Cloud hearing from overseas and so, I think

1       that the estate can save some money by virtue of those  
2       procedures in the event that this issue comes up again.

3                   So I'm happy to grant this motion and we can move  
4       on to the next motion.

5                   MS. KIM: Thank you very much, Your Honor. The  
6       next motion is a motion for an order authorizing Holdco to  
7       enter into a payroll contract and incur related obligations  
8       to the transfer of employees; it was filed at ECF No. 601.

9                   With this motion, we submitted a declaration from  
10      Mr. Joseph Sciametta from Alvarez & Marsal and we ask that  
11      this declaration be admitted to the record.

12                  THE COURT: All right. Any party wish to be heard  
13       on the admission of this declaration into evidence? All  
14       right. Hearing no response, the Court is happy to receive  
15       that declaration for purposes of this motion.

16                  MS. KIM: Thank you, Your Honor. Just briefly to  
17       the facts. All employees that provide services to the  
18       Debtors are currently employed by Genesis Global Trading,  
19       which is a non-debtor affiliate entity. And to prepare for  
20       the possible sale or winddown of Genesis Global Trading, the  
21       Debtors are planning to transition payroll services,  
22       employment agreements, and other related obligations from  
23       Genesis Global Trading to Genesis Global Holdco.

24                  To that end, Holdco proposes to enter into a  
25       payroll processing contract with TriNet USA, Inc., which is

1       a vendor who has historically provided these types of  
2       services to the employees. Holdco is seeking to begin the  
3       transition of employees as early as October 1st and  
4       anticipate that the cost associated with the contract to be  
5       around \$11,000 a month. Once they enter into the payroll  
6       contract looking forward, the Debtors anticipate that a  
7       subset of employees will enter into employment agreements  
8       with Holdco and Holdco would begin to incur related  
9       obligations, such as paying their wages and providing  
10      benefits.

11           The Debtors believe that these are ordinary course  
12       transactions, but request Court authority regardless. And  
13       needless to say, the employees are a critical part of the  
14       Debtors' business and providing for their continued  
15       employment and receiving the benefit of their services is  
16       absolutely necessary for their operations and the  
17       implementation of any Chapter 11 plan in these cases.

18           So the Debtors have determined in their sound  
19       business judgment that the relief requested is necessary  
20       here.

21           We've consulted on this motion with the committee  
22       and counsel to DCG, the parent company of Genesis Global  
23       Trading. The motion and the proposed order reflect comments  
24       from the committee, which has reserved its rights under the  
25       proposed order. We have received no formal objections to

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1 the motion otherwise.

2 And Your Honor will note that the proposed order  
3 also notes that this order does not approve any transfer  
4 under Section 503(c) and the Debtors will file a separate  
5 motion for any such transfers to insiders.

6 Unless you have any questions, Your Honor, we  
7 would ask the Court to enter the proposed order filed with  
8 this motion.

9 THE COURT: All right. Thank you very much. Any  
10 party wish to be heard on this motion at No. 2 on the  
11 amended agenda? All right. I see Mr. Abelson shaking his  
12 head no, and I don't hear any other party. I am happy to  
13 grant the motion for all the reasons that you set forth in  
14 the papers and summarized here this morning on the record,  
15 again, as appropriate under the facts and circumstances and  
16 consistent with applicable law.

17 And with that, I think we can move on to the next  
18 agenda item.

19 MS. KIM: Thank you very much, Your Honor. I'll  
20 hand it back to Miss Vanlare.

21 THE COURT: All right. Thank you very much, and  
22 it's always great to have younger members of the Bar appear  
23 in these cases, so thank you, Miss Kim.

24 MS. VANLARE: Thanks very much, Your Honor. So  
25 next, we'd like to hold a status conference on the FTX

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1 matter; more specifically, the Debtors had filed a motion to  
2 approve a settlement agreement with FTX. We had noticed it  
3 for today. We had received an objection that was filed by  
4 the ad hoc group. The objection was joined by the Brown  
5 Rudnick group, as well as Gemini. We subsequently were  
6 served with discovery. Consistent with the conversation  
7 that we had with your chambers, as a result of that, we  
8 converted this into a status conference and would like to  
9 ask Your Honor to set an evidentiary hearing for approval of  
10 the motion.

11 We've already begun production of documents, so we  
12 anticipate being able to respond to the document request in  
13 the next few days. We're also prepared to schedule a  
14 deposition of Mr. Islim, which is what had been noticed by  
15 the ad hoc group for early next week, and we had reached out  
16 to chambers to see if Your Honor was available either  
17 Thursday or Friday of next week.

18 We understand that the ad hoc group may feel that  
19 they need more time. We do think that it's quite important,  
20 Your Honor, that we proceed expeditiously to hear the motion  
21 and to have the evidentiary hearing. It's very important to  
22 the sale process the Debtors have been running of certain  
23 non-debtor assets.

24 And furthermore, the ad hoc group and counsel to  
25 the ad hoc group is intimately familiar with the issues

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1 involved in the FTX settlement. They have been part of the  
2 process since November of 2022. They've been involved in  
3 the analysis and discussions about the claims and the facts  
4 that are relevant. They were furthermore regularly updated  
5 as to the process of the settlement negotiations, so they're  
6 very familiar with the facts and the legal issues involved,  
7 and the same is true of Gemini.

8 So, Your Honor, obviously subject to your  
9 availability, we would ask that you schedule the hearing for  
10 next week at the end of the week if that's possible. Thank  
11 you.

12 THE COURT: Thank you very much. Let me ask just  
13 a couple of general questions. What do you envision the  
14 hearing consisting of in terms of number of witnesses,  
15 length. A 9019 hearing almost like as to standing is not --  
16 you know, you're not trying the merits of the claims, and so  
17 you're canvassing things to get a sense of how to assess the  
18 factors and the case law under Rule 9019. So what do the  
19 Debtors anticipate their essentially case-in-chief on the  
20 settlement motion would look like?

21 MS. VANLARE: So, Your Honor, we think that we can  
22 -- we don't need a very long hearing on these issues. We  
23 had submitted a declaration of Mr. Islim. We'd propose that  
24 we submit that in lieu of any direct testimony. I'm not  
25 sure if the ad hoc group or others intend to cross-examine

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1 Mr. Islim, but that would be par for the course following  
2 his deposition. And then we would anticipate having opening  
3 and closing arguments. Again, I don't think this should be  
4 a very lengthy hearing.

5 THE COURT: All right. And in light of the  
6 potential for cross, I'm assuming that we would -- Mr. Islim  
7 and counsel and would be here in person for that hearing.

8 MS. VANLARE: We were planning on that, Your  
9 Honor. Obviously, we are happy to do whatever Your Honor  
10 would prefer on that point, but we're certainly prepared to  
11 appear in person.

12 THE COURT: Yeah. Now again, if everyone reaches  
13 an agreement where there's no need for live testimony, it's  
14 one thing. But I just -- one of the things, we're obviously  
15 doing this hearing remotely and we're doing it remotely  
16 because it's efficient and because folks feel that it's an  
17 appropriate alternative. But as we all know, evidentiary  
18 things don't work so well remotely and I think all judges  
19 and all parties, frankly, counsel, are happy to leave the  
20 virtual evidentiary hearing in the past.

21 All right. Well, thank you for that. Anything  
22 else on your take about what a hearing would look like?

23 MS. VANLARE: No, Your Honor.

24 THE COURT: All right. So let me hear from other  
25 parties who wish to be heard about FTX settlement hearing.

1                   MR. SAZANT: Thank you, Your Honor. This is  
2 Jordan Sazant for the record from Proskauer Rose on behalf  
3 of the Ad Hoc Group.

4                   As Miss Vanlare said, we filed an objection to the  
5 FTX settlement motion. We appreciate that Cleary Gottlieb  
6 and the Debtors have begun document production. We received  
7 the first production earlier today. Obviously, I've not had  
8 a chance to review it. At a quick glance, it's 8,000 pages  
9 of documents that we are going to have to go through, and I  
10 anticipate that there are further documents that will be  
11 produced based on representations from the Debtors.

12                  We've also propounded discovery on the UCC and are  
13 waiting to meet and confer with them on the timing and scope  
14 of their production.

15                  So we don't believe that at this time, it's  
16 appropriate to set a hearing for next week when we haven't  
17 had an opportunity to review any of the documents or to  
18 determine when we will be able to receive the full scope of  
19 documents from both the Debtors and the committee, so we are  
20 waiting to (sound glitch) on that, but we have a...

21                  As you know, we have a hearing scheduled currently  
22 for the 26th and we don't see a reason to expedite this in  
23 advance of that hearing at this point. Of course, however  
24 Your Honor wishes to proceed, we will make ourselves  
25 available.

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1           THE COURT: All right. Let me hear from other  
2 parties who filed objections.

3           MR. AULET: Your Honor, Kenneth Aulet from the  
4 Fair Deal Group. We agree with Mr. Sazan. We don't see a  
5 reason that this needs to be on such an abbreviated schedule  
6 given that there's already a hearing in 20 days.

7           THE COURT: All right. Anyone else?

8           MR. FRELINGHUYSEN: Your Honor, Anson  
9 Frelinghuysen, Hughes Hubbard for Gemini Trust Company. We  
10 join in the other oppositions.

11          THE COURT: All right. And obviously, let me hear  
12 from the committee if the committee has anything it wants to  
13 say on this score.

14          MR. WEST: Your Honor, Colin West from White &  
15 Case on behalf of the committee. I just want to note in  
16 response to Mr. Sazan's comment about discovery propounded  
17 on the UCC. It's true that we haven't met and conferred.  
18 That discovery was served, I believe, late Friday night  
19 before the weekend. It appears that discovery, the requests  
20 are completely duplicative of information requested from the  
21 Debtor, so I don't think that alone should be a  
22 consideration for the timing of the requested hearing.

23          THE COURT: All right. Anything else from the  
24 committee?

25          MR. WEST: Nothing else from the committee, Your

1 Honor.

2 THE COURT: All right. And since we're talking  
3 about a settlement with FTX, it seems only appropriate to  
4 ask FTX if they have any views about any of this.

5 MR. GLUECKSTEIN: Good afternoon, Your Honor.

6 Brian Glueckstein, Sullivan & Cromwell for FTX. From our  
7 perspective, certainly we would like the Court to consider  
8 the settlement as early as practicable.

9 Judge Dorsey today in our case in Delaware entered  
10 an order approving the settlement, but obviously, the  
11 effectiveness is contingent on consideration by Your Honor,  
12 but obviously defer to the Court on the appropriate timing  
13 for that.

14 THE COURT: All right. Thank you very much.

15 Anyone else who wishes to be heard on this issue?

16 Ms. Vanlare, did you want to chime in?

17 MS. VANLARE: Yes, Your Honor, just briefly. I  
18 just wanted to address the question about the reason for the  
19 expedited hearing. As I mentioned earlier, we are  
20 conducting a sale process of non-debtor assets. We're  
21 hoping to close that sale by the end of the month; that is  
22 driving the timing. And so, that's an important reason as  
23 to why we are hoping to have the hearing next week, rather  
24 than on the 26th, which is a bit too close to the month's  
25 end. We again, we don't think that there are a lot of

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1 issues here, certainly nothing really new. Again, the ad  
2 hoc groups and Gemini have been involved in this for close  
3 to a year.

4 I did want to mention, just clarify the sale  
5 point; that's very important as far as the timing.

6 THE COURT: All right. Thank you very much. So I  
7 can't do it on the 14th as a practical matter. We already  
8 have a fairly full calendar. And so, my thought would be to  
9 -- and again, someone will have to clue me in as to the  
10 exact dates of some of the Jewish holidays. Obviously, my  
11 intention is not to interfere with any of those.

12 But I believe with Rosh Hashana ending on the  
13 17th, we could schedule it for the 18th, which would give  
14 people a little more time, I understand. At the same time,  
15 I suspect that the hearing that we already have probably has  
16 a number of things already scheduled, and so, I find it's  
17 (sound glitch) to take evidentiary matters and separate them  
18 out if we can.

19 So my thought would be if we could use the 18th  
20 starting at 10:00, and if folks think that the hearing is  
21 not likely to take more than, say, three or four hours, I'm  
22 open to starting at 11:00, but I don't want to do that  
23 unless folks are on the same page about the amount of time  
24 we need. The idea would be to finish it that day without  
25 any concerns about getting through it. So I don't know what

1       folks think about that suggested day.

2                     MS. VANLARE: Thank you very much, Your Honor. If  
3       we may, Your Honor, we'd like to confer with our client, if  
4       we could, and with the other parties and reach out to  
5       chambers following this hearing.

6                     THE COURT: All right, that's fine. And if that  
7       doesn't work, then you talk to Miss Ebanks about some other  
8       possible dates and I will do the same and she will do the  
9       wonderous job that she usually has in bringing order to  
10      chaos and getting us all a date that works. All right, so  
11      I'll wait to hear back from you on that.

12                  So anything else that we should discuss as to the  
13      FTX settlement?

14                  MS. VANLARE: Nothing else on FTX, Your Honor, so  
15      I'll cede the virtual podium to Mr. Barefoot.

16                  THE COURT: All right. And before we segue to  
17      other things, there's something I didn't want to forget to  
18      mention. I don't quite know when the appropriate time is to  
19      mention this, so now may be as good as any.

20                  We have been getting a considerable number of pro  
21      se emails from folks who are investors, customers. I have a  
22      stack of some of the most recent ones, and they range in  
23      sort of a variety of things. So sometimes people are,  
24      understandably is often the case in bankruptcy cases,  
25      explaining the importance of this to them and what their

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1 economic involvement is and how important the case is and,  
2 obviously, that's understandable. Sometimes people will  
3 talk about, you know, we'll sort of see their emails an  
4 objection and wonder why it hasn't been filed, and sometimes  
5 it's arguments on various things. Occasionally, you get a  
6 one off that has sort of more personal views about the  
7 bankruptcy process, the case, or even me in particular.

8 And so, the question is how to handle these, and I  
9 think there's two -- there's a couple of observations that I  
10 wanted to pass along because obviously there are a lot of  
11 folks here who are representing these folks, you know, in  
12 some capacity or another.

13 One is that people I don't think understand that  
14 sending an email to chambers is not the same as filing  
15 something, and that's sort of one issue and concern.  
16 Another is that in sending these things to us, sometimes  
17 people may not have a full appreciation for what the reason  
18 ruling about sealing means or doesn't mean.

19 Some people may have taken away the headline that  
20 says all the information is protected no matter what I do,  
21 which I think the professionals on the phone understand that  
22 that's not quite exactly right; that once you want to be  
23 heard in a case, that you sort of surrender some of your  
24 privacy in the sense of saying you're going to become an  
25 active participant. And so, you essentially might be

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1 waiving some of the protections that might otherwise be  
2 available to you by virtue of that decision in the sealing  
3 order. But again, it's not that easy thing to figure out if  
4 you don't spend your days in the Bankruptcy Court and in  
5 legal proceedings.

6 So I certainly understand there's some confusion  
7 about that, but I want to make sure that we get it as  
8 straight as possible so that nobody inadvertently waives any  
9 rights. So we haven't taken any of these emails and put  
10 them on the docket for that reason because they have lots of  
11 identifying information. At the same time, it presents a  
12 volume problem for us because I don't know what the latest  
13 count is of how many emails we've gotten, whether it's 50 or  
14 whatever it is, but I have a stack of the recent ones.

15 And so, I would very much appreciate your  
16 assistance in some sort of protocol, whether it's sending  
17 the emails to folks who represent these customers in one  
18 capacity or another and try to figure out a protocol for  
19 handling them. But again, I understand why people may not  
20 quite understand the protocol and the extent of the privacy  
21 protections that are available to them versus when they  
22 surrender those protections by virtue of becoming an active  
23 participant.

24 So I realize that these emails and this kind of  
25 issue touches on a number of the counsel here, and maybe all

1       in one way or another because they're customers of the  
2       Debtor, the Debtor wants to protect their information,  
3       they're being represented by the committee; they're also  
4       being represented by various other groups, the ad hoc group,  
5       for example. And so, I just wanted to at least present the  
6       issue and canvass the room so that we can figure out an  
7       appropriate way to address it. And we may be able to figure  
8       it now on the fly, but it may be something that people want  
9       to think about and we can circle back to.

10                   So with that, I'll open it up to folks if anybody  
11       has any comments about what you think the next steps are.

12                   MR. O'NEAL: Your Honor, Sean O'Neal, Cleary  
13       Gottlieb, on behalf of the Debtors. Perhaps we can have a  
14       discussion with the Official Committee of Unsecured  
15       Creditors about the best approach, and then we can report  
16       back and discuss among the other constituencies as well.

17                   THE COURT: All right, that makes sense to me. I  
18       at least wanted to identify the issue today. Mr. Abelson?

19                   MR. ABELSON: Yeah, Your Honor. Phil Abelson,  
20       White & Case, on behalf of the UCC. I was going to say  
21       exactly what Mr. O'Neal suggested, which is let us take it  
22       back. We'll come up with a protocol. Some of them may be  
23       Gemini holders, so we want to speak to Hughes Hubbard who  
24       represents them, and we'll incorporate and see who should be  
25       included depending on if we recognize the names as being

1 part of any of the groups, so we'll contact appropriate  
2 counsel as well.

3 THE COURT: All right. So why don't I assume  
4 that's what we're going to do unless somebody wants to chime  
5 in and has a different path. All right.

6 So the one question then I would have is that for  
7 some of these, I know you all have been copied, so I'm  
8 looking at one that includes a cc to Mr. O'Neal and Miss  
9 Vanlare and Mr. Barefoot, and others of which are less clear  
10 that anybody else other than chambers it was sent to. So my  
11 guess is you probably have a lot of these, but not  
12 necessarily all of these.

13 So what we can do in chambers is go through and  
14 identify any ones that we think weren't sent to -- were sent  
15 only to chambers, and then maybe we can put those in an  
16 email package and then send them to Mr. O'Neal and Mr.  
17 Abelson to look at and disseminate as appropriate. And ones  
18 where either the Debtors or the committee or some other  
19 party-in-interest, which is Gemini, is copied on them, we  
20 won't do that, we'll assume you have them.

21 But this way at least we'll do the best we can to  
22 make sure we think you have as complete a package as  
23 possible. Does that make sense?

24 MR. O'NEAL: That sounds like a great approach,  
25 Your Honor, appreciate it. I mean, we endeavor to respond

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1 to every single email and question that comes to us from  
2 creditors. We may have missed some, but I think we hit them  
3 all and we logged them as well. So I think that'd be a  
4 terrific idea and we can compare notes with Phil and also  
5 Gemini's counsel as well, as Mr. Abelson suggested.

6 THE COURT: All right. And one thing to just sort  
7 of preview a potential future conversation. Certainly the  
8 opinion that was issued on the issue of privacy and sealing  
9 provided guidance on how to address folks' privacy going  
10 forward in instances where folks may be taking actions to  
11 surrender that privacy.

12 And so, for example, there was cited if somebody  
13 is going to serve on the committee that that's consistent  
14 with I think another judge who reached the same conclusion.  
15 Well, if that's what you're going to do, then that has  
16 implications on the privacy point of view. But it also may  
17 be that folks understand that opinion on a sort of big  
18 picture level but may not understand the specific  
19 consequences for them and what their actions are.

20 So it could be -- and you may be way ahead of me  
21 on this, but it could be that some sort of an email with  
22 some guidance as to various actions that folks take and what  
23 consequences those have or don't have as to their privacy  
24 might be useful. And again, you may already be in front of  
25 this, whether it be the committee or the ad hoc group, the

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1       Debtors, and I realize there's so much of what happens in a  
2       case that I don't see, but I throw that out there for what  
3       it's worth and you can think about it.

4                  But again, and I think of that just specifically  
5       where someone had said why wasn't my objection filed and  
6       they were sort of wondering about that, and the answer, as  
7       we all know, is a little more complicated than that. So I  
8       throw that out for your consideration when you chat and  
9       we'll take it from there.

10                 All right. Thank you for your assistance on that.  
11       It's an important issue; that's why I spent some time to  
12       write an opinion on it. I know there have been various  
13       bench rulings, but a certain point, opinions I think are  
14       more helpful to try to clear away any issues and provide  
15       clear guidance for folks.

16                 And in the same vein about privacy, I know I did  
17       get notification of a data breach. I don't know if there  
18       was anything worth discussing on the record about that;  
19       obviously, it's a serious issue. I suspect that all the  
20       folks involved are doing what has to be done on that. And I  
21       guess I only mention it to the extent there's anything that  
22       you might need from me on that or that's worth discussing in  
23       this particular forum.

24                 MR. O'NEAL: Your Honor, I think we'll defer to  
25       Miss Vanlare on that one. She's really been taking the

1 lead. I don't think we need anything from Your Honor, but  
2 I'll defer to Miss Vanlare.

3 MS. VANLARE: Yes, Your Honor. As you mentioned,  
4 that is correct, there was a data breach at the claims  
5 agent. We have been following up on this. They have been  
6 working with the authorities about this matter. They  
7 included a notice on the docket and sent out notifications  
8 to the creditors that were, unfortunately, affected by the  
9 breach. And so, we have undertaken a lot of effort to try  
10 to notify the relevant parties and notify other parties.

11 I guess the only thing I think worth adding is,  
12 again, to underline to anyone who's listening that you  
13 should be very mindful of any communications that you  
14 receive about any of your claims, and certainly anything  
15 asking for personal information is very likely not coming  
16 from either us or the claims agent or any of the appropriate  
17 parties in this case. And so, we just urge everyone to be  
18 incredibly vigilant and not provide any personal  
19 information.

20 THE COURT: All right. Go ahead, Mr. O'Neal.

21 MR. O'NEAL: Sorry. I just wanted to interject  
22 that it, you know, just to be clear, it was not a data  
23 breach at Genesis. It was a data breach at the claims  
24 administrator that has affected a number of the crypto  
25 cases, not just Genesis. But, you know, I think we've done

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1 all the notifications that need to occur and appreciate your  
2 raising it.

3 THE COURT: All right. Thank you very much for  
4 that. I wanted to mention it just because I know -- we all  
5 know personally the number of notifications that we all get  
6 about your data being breached. You bought a pair of  
7 sneakers from a department store, you get a notification  
8 that your data's been breached from that store, and so,  
9 there's always concern that people become a bit sort of numb  
10 to it all. But we also know that in other cases, people  
11 have taken action on the data that's been breached here, and  
12 so the consequences are potentially very serious.

13 I appreciate all your efforts. Again, if there's  
14 anything that I can ever do to assist on that, you'll let me  
15 know. And so, with that, those are two issues I just  
16 thought now was as good a time as any.

17 And with that, I'll turn it back to Miss Vanlare  
18 to tee up the next item.

19 MS. VANLARE: Thank you, Your Honor. I was  
20 actually just ceding the virtual podium to Mr. Barefoot to  
21 address the Three Arrows Capital motions.

22 THE COURT: All right, Mr. Barefoot.

23 MR. BAREFOOT: Good afternoon, Your Honor. Luke  
24 Barefoot from Cleary Gottlieb for the Debtors. Can you hear  
25 me all right?

1 THE COURT: I can hear you just fine. Thank you.

2 MR. BAREFOOT: Great. Thank you, Your Honor.

3 Turning to the Three Arrows Capital portion of this  
4 afternoon's agenda that was originally listed at Items 3 and  
5 4 on the amended agenda.

6 Following the disputes that Your Honor heard back  
7 in August concerning the liquidators amendments of their  
8 proofs of claim against the Debtors, liquidators did file  
9 amended proofs of claim against each of the Debtors on  
10 August 18th, and we filed our renewed claims objection to  
11 those amended claims this past Friday, September 1st.

12 In tandem, Your Honor, with that process of filing  
13 a revised objection to the amended claims, the parties were  
14 discussing in earnest the schedule to have an evidentiary  
15 hearing to finally have those claims adjudicated. As a  
16 result of those discussions and that process, you have  
17 before you today two competing schedules filed by the  
18 Debtors and by the Three Arrows liquidators respectively.

19 As a threshold matter at the outset, Your Honor, I  
20 wanted to address the shortened notice issue. I think given  
21 that Your Honor does have before him competing proposed  
22 schedules and competing submissions on the appropriateness  
23 of those schedules, in the Debtors' view, that really  
24 renders moot the opposition hearing this matter today. The  
25 parties had been in discussions concerning those amended

1       schedules for about two weeks.

2                   And the main reason stated by the liquidators in  
3       opposing shortened notice was that they wanted time and an  
4       opportunity to submit a brief with their reasons for  
5       advocating for a more extended schedule. They've now done  
6       that in a 10-page submission that was filed yesterday  
7       afternoon with a proposed order embodying their proposed  
8       schedule.

9                   So as I said, from the Debtors' perspective, that  
10      effectively moots any of the rationale or dispute over  
11      hearing this matter today and we'd ask that the shortened  
12      notice motion be granted.

13                  THE COURT: All right. So I'll hear from Three  
14      Arrows Capital in a second. My thought is that it's not  
15      very productive to spend too much time on the shortened time  
16      motion, other than to observe that this is not a way to make  
17      any friends or to influence adversaries in any positive way.  
18      It was filed the Friday before the Labor Day weekend and it  
19      made reference, I noted, to something that said, well, we  
20      did this on September 1st and then, you know, we waited  
21      before filing this motion; of course, the motion was filed  
22      September 1st and it was filed in the afternoon.

23                  So I would just urge folks to stay away from  
24      things like that. It just adds a level of fuel to the fire  
25      that is not very conducive to a good relationship and to

1 getting things done. But with that said, I do have the  
2 parties' views and I have Three Arrows proposed schedule  
3 right in front of me. But with that, I don't want to rob  
4 Three Arrows of a chance to be heard on the shortened time,  
5 even though it's clear I'm trying to lead the witness that  
6 we should get to the merits of the schedules. But let me  
7 hear from Three Arrows Capital counsel.

8 MR. GOLDBERG: Thank you, Your Honor. For the  
9 record, Adam Goldberg of Latham & Watkins on behalf of the  
10 joint liquidators of Three Arrows Capital.

11 Your Honor, if you're ready, we're ready and our  
12 objection is withdrawn.

13 THE COURT: All right. So let me ask Mr.  
14 Barefoot, I know there's the thought about the importance of  
15 this getting done and, obviously, there's significant  
16 claims, there's significant issues to be resolved.

17 I will say that when we were in the throes of the  
18 debate between the Debtors and FTX about lifting the stay,  
19 estimation, various things, and pushing towards  
20 confirmation, this wasn't really on the front burner. And  
21 so, I'm not saying it's not important, but it's certainly --  
22 so I was a little confused, I guess, when thinking about all  
23 this where this fits and the issues that need to be resolved  
24 before confirmation.

25 So certainly, I understand that what goes on with

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1 the parent is something that's a settlement that's going to  
2 be either teed up separately or teed up at confirmation if  
3 it's a preliminary backed confirmation and that the  
4 litigation with FTX falls into that same category. I wasn't  
5 really sure how this does, where it fits in the grand scheme  
6 of things. It's obviously important, but we know there's  
7 all sorts of time when you confirm and then you have lots of  
8 litigation that happens in the aftermath.

9 So any wisdom you can shed on that?

10 MR. BAREFOOT: Yes, thank you, Your Honor; that's  
11 exactly where I was going to start. Just putting things in  
12 the orders of magnitude, the FTX claims were in excess of 3  
13 billion when these were filed. These are smaller, but still  
14 incredibly large; they're in excess of a billion dollars.

15 And in the context of that case where the debtors'  
16 distributable assets are slightly north of \$2.5 billion, the  
17 magnitude of a reserve that would be required to satisfy  
18 these and continue to litigate them post effective date and  
19 post initial distributions would have an incredibly dramatic  
20 effect on creditor recoveries.

21 And I think that's particularly important, Your  
22 Honor, in the context of this case going to some of the  
23 comments that Your Honor has seen and emails that we've all  
24 received from creditors. This is not a company that had  
25 publicly held securities or large syndicated debt facilities

1 invested and by institutional investors that may have an  
2 appetite to wait some months or some years beyond the  
3 effective date to get returns on their distributions. These  
4 are much smaller creditors for whom liquidity is incredibly  
5 important.

6 And if we were in a scenario where, as the  
7 liquidators would propose, we wouldn't have an evidentiary  
8 hearing until the end of January. We would anticipate that  
9 to be significantly later than our confirmation and  
10 effectiveness and would tie up a significant amount of the  
11 Debtors' available funds that could otherwise go out the  
12 door towards making creditors whole.

13 THE COURT: All right. Anything else from you,  
14 Mr. Barefoot, before I hear from Three Arrows?

15 MR. BAREFOOT: If I could just make a couple of  
16 additional points, Your Honor, and then I believe the UCC  
17 also wanted to be heard in support of our proposed schedule.

18 Your Honor, I think the other two points that I  
19 wanted to make are, first, that while these claims may seem  
20 voluminous and messy, they are not factually complex. There  
21 are four transfers that are challenged as preferences and  
22 there are discreet and agreed number of transfers challenged  
23 as the collateral not being appropriately pledged and,  
24 therefore, bringing conversion or related claims against the  
25 Debtors.

1           I would anticipate that in advance of a hearing,  
2 Mr. Goldberg and we could make significant progress towards  
3 stipulating on a number of those facts. That's not to say  
4 that there are not complex legal issues; in particular, I  
5 think our arguments under the Safe Harbors, but that's more  
6 of an issue for the decision than it is for needing a long  
7 time for discovery.

8           The second point that I just wanted to make, Your  
9 Honor, is the imperative to get a schedule ordered. I know  
10 it may seem like this is brand new because we've just filed  
11 our amended claims objection on Friday, but the parties have  
12 been in informal information exchanges going back five or  
13 six months and the parties have been in more formal  
14 discovery for the past six or eight weeks.

15           Despite that, while the Debtors have produced  
16 thousands of pages of documents, we have yet to receive a  
17 single document from the Three Arrows liquidators. We were  
18 also quite disappointed, Your Honor, that their lift stay  
19 motion was only filed today, coincidentally just beyond the  
20 21-day notice period that would have allowed it to be heard  
21 on September 26th. So it's very important to us that we not  
22 lose more time to delay tactics and that we all have a clear  
23 guidepost to move towards the efficient resolution of these  
24 claims.

25           THE COURT: All right. I think it makes sense to

1 hear from the committee before I hear from Three Arrows  
2 Capital as the committee is aligned in interest with the  
3 Debtors on this issue, it sounds like, so let me hear from  
4 the committee.

5 MR. WEST: Thank you, Your Honor. Just for the  
6 record, again, Colin West of White & Case for the Official  
7 Committee.

8 Just to start out with the basics. We fully agree  
9 with the Debtors that the discovery and hearing schedule  
10 that they've proposed is entirely reasonable. The committee  
11 has worked incredibly hard over the last several months  
12 fighting to get a deal that we believe provides a good  
13 outcome for unsecured creditors under the circumstances.

14 And while there are clearly some uncertainties and  
15 some creditors who have expressed some disagreement, we  
16 believe those differences can be resolved and that we have a  
17 structure that provides a path to a confirmable plan that is  
18 fundamentally what the creditors want and what the creditors  
19 deserve. As committee professionals, we continuously hear  
20 from the creditor body that an overarching concern of theirs  
21 is to get their money back as soon as possible, and I expect  
22 that the Court is hearing some of those same types of  
23 sentiments expressed in some of the communications we just  
24 discussed.

25 Unfortunately, Your Honor, the Three Arrows

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1 liquidators have seized on some of those disagreements among  
2 creditors to argue that there would be no harm caused by a  
3 drawn out discovery schedule targeting a hearing in late  
4 July; that is simply not the case. While there is some  
5 disagreement, the committee believes it is resolvable and  
6 that we can get to a confirmable plan. In any event, Your  
7 Honor, injecting further uncertainty around the exit date or  
8 around a reserve for Three Arrows while claims are being  
9 litigated is only going to be a further impediment to  
10 resolving those disagreements.

11 And again, I just reiterate in that context it's  
12 worth noting the liquidators waited until two hours before  
13 this hearing to lob in their lift stay motion to have their  
14 claims litigation elsewhere, presumably under the belief  
15 that this would delay the entry of a scheduling order.  
16 Respectfully, we think that tactic should be rejected.

17 The schedule that the Debtors propose is  
18 reasonable and the committee fully supports it.

19 THE COURT: All right. Thank you very much. And  
20 so, anybody else who wishes to be heard before I hear from  
21 Three Arrows Capital? All right. Let me hear from Three  
22 Arrows Capital.

23 MR. GOLDBERG: Thank you, Your Honor. Again, for  
24 the record, Adam Goldberg of Latham & Watkins on behalf of  
25 the joint liquidators of Three Arrows Capital.

1                   THE COURT: Do me a favor, just make sure you're  
2 close enough to a microphone. Your voice is dropping off  
3 there at the end. Again, the joys of the virtual world, so  
4 continue, please.

5                   MR. GOLDBERG: Sorry about that. I'll speak up,  
6 Your Honor. Thank you.

7                   Let me reiterate at the outset, Your Honor, that  
8 we consent to entry of a scheduling order as Your Honor may  
9 determine today, and we would also consent to a hearing of  
10 the stay motion on September 26th if that is acceptable to  
11 the other parties and Your Honor. We had reached out to  
12 chambers to seek a hearing date for that motion before the  
13 -- we filed it today and had not yet heard back; that's why  
14 we filed it as a TBD and so, we're happy to have that  
15 scheduled today.

16                  THE COURT: Any one of the parties here has a much  
17 larger contingent of folks working on this particular case  
18 than we have in the entirety of our chambers, so we do the  
19 best to be prompt in our response.

20                  MR. GOLDBERG: I'm sure, Your Honor.

21                  THE COURT: But same-day service is not  
22 guaranteed, and I had morning hearings from 10:00 to 12:30,  
23 but continue.

24                  MR. GOLDBERG: No, of course, Your Honor. Didn't  
25 mean that as any criticism of Your Honor or chambers, simply

1 just that it was in process.

2 So to focus on the schedule, Your Honor, I think  
3 the justification the Debtors have advanced here is focused  
4 on their alleged impairment to distribution to creditors. I  
5 think Your Honor is right to focus on how this is different  
6 from the FTX situation that was dealt with earlier on in the  
7 process. Those claims, in addition to being larger,  
8 presented a very different situation in the Debtors'  
9 arguments to this Court.

10 I'd like to highlight what they argued and why  
11 it's different from the current situation. They argued,  
12 "Given the sheer size of the asserted FTX claims compared to  
13 the Debtors' assets and scheduled claims pool, it would be  
14 practically impossible to implement any Chapter 11 plan  
15 without estimating the FTX claims." That was at Docket No.  
16 373, Paragraph 18, and that was filed on June 1st.

17 The situation now is very different from the  
18 situation the Court faced with FTX. The Debtors are not  
19 saying that they need to resolve the Three AC claims before  
20 they can formulate a plan. They're earnestly working --

21 THE COURT: Well, but let me ask you this  
22 question. I sort of see where you're going. But I think --  
23 I wouldn't say the universal response of judges in these  
24 circumstances, but a common response of judges in these  
25 circumstances is to say we don't know how it's all going to

1 work out, but certain things have to get addressed and the  
2 larger they are, the bigger impact they have. They have to  
3 get teed up so they get cited. Maybe the confirmation  
4 happens before, maybe the confirmation happens after, but if  
5 it's an impediment to distribution, then it's obviously  
6 sensitive.

7 And so, I mention that now just because I can't  
8 predict the future, Rome wasn't built in a day, and so, it's  
9 going to take time to get all these things done. At the  
10 same time, it seems pretty clear that there's a need to act  
11 promptly to try to move things forward, so that's my prism  
12 for it because, I confess, I can't predict how this, vis-à-  
13 vis confirmation, is going to work and that may depend on  
14 whether people reach agreements about other things. And so,  
15 I don't really -- I don't really necessarily view it in such  
16 concrete categories because things often change.

17 Again, I've probably bored some of you in the past  
18 with the various analogies, the Schrödinger's cat, which I  
19 never thought on taking the bench would be such an apt  
20 metaphor that I would turn to again and again, but it often  
21 fits the case.

22 MR. GOLDBERG: Understood, Your Honor. And we  
23 don't oppose the prompt resolution. I think the issue that  
24 Your Honor will have to balance today are the goals of a  
25 prompt resolution on the one hand and due process on the

1 other. And I think Your Honor is exactly right that we  
2 don't know when a plan is going to be confirmed. We don't  
3 know. There is no confirmation hearing scheduled. And we  
4 don't really know what the impact of distributions of, of  
5 reserve for the Three Arrow claims would be on distribution.

6 THE COURT: Well, but it's -- just like FTX, it's  
7 a billion dollar claim. And when FTX said you can go ahead  
8 with the case without worrying about this, I think my  
9 response was that's billion with a B. And the same applies  
10 to your circumstance. So let me ask you this. I understand  
11 that some of these things haven't been formally teed up.

12 It's been sort of scattershot in the way -- in  
13 terms of what's coming in front of me for Three Arrows'  
14 purposes. But I have been hearing for some months that the  
15 parties have been going back and forth in terms of informal  
16 discovery. We got together to talk about, you know, filing  
17 an amended claims objection. I understand that happened. I  
18 applaud that step as a way to move the ball forward. But  
19 you know, if you -- lots of adversary proceedings or cases  
20 in district court are subject to a 60-day discovery  
21 schedule, and in bankruptcy even more so. So what I  
22 understand that the Debtors are proposing is November, which  
23 is basically two months away. And you're proposing January,  
24 which is I guess all of November, all of December, and most  
25 of January. So two and a half months away.

1           But that -- your schedule does seem to be a bit  
2 lengthy, and I'm not sure why we need that amount of time  
3 given what clearly has been going on in terms of information  
4 exchange over the course of the past however many months.

5           MR. GOLDBERG: Well, I'd like to say just one more  
6 remark about the context of that difference between two  
7 months for the -- from the Debtor's perspective and four  
8 months from our perspective, which is that we don't know  
9 when distributions will be made, but we know they won't be  
10 complete for years in this case, Your Honor. We have seen  
11 -- all we know about the --

12           THE COURT: I get it, but it's a large claim. And  
13 in order to understand the mechanics of what a case would  
14 look like, and recoveries might look like, it's not a  
15 frivolous position for us to say, Judge, it's important for  
16 us to have a handle on what that looks like when we figure  
17 out what the case looks like and what we can tell Creditors  
18 their recoveries might look like.

19           MR. GOLDBERG: Understood, Your Honor. Let's  
20 focus on what is the issues in this case. I think that the  
21 Debtor's 863-page claim objection speaks for itself, that  
22 this is a deeply fact-intensive and complex matter  
23 addressing issues that some of which have never been ruled  
24 upon by any court, including a bankruptcy court, such as the  
25 safe harbor issues that Mr. Barefoot referenced, how those

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1 should apply to cryptocurrency transactions, and the  
2 transactions that are issue here, and how --

3 THE COURT: But that isn't -- that's briefing. So  
4 my question is what discovery needs to happen, right?  
5 That's where we build out things. And there are times when  
6 folks want a ruling from the court very quickly, and there  
7 are times I'll say I'm moving as fast as I can, and it's  
8 going to take longer than you may want because the issues  
9 are complicated. But that's -- let's build this from the  
10 ground up. What discovery is left to be done in this case?

11 MR. GOLDBERG: Well, Your Honor, there is  
12 extensive discovery that remains. I mean, first of all, we  
13 have only started with production of documents from  
14 ourselves to the Debtors as well as receiving productions  
15 from the Debtors. There --

16 THE COURT: Well, that -- that's not normally the  
17 way people lead in discovery. They normally say here's what  
18 I need from the other side. You have what you have. So  
19 I'll leave it to Mr. Barefoot to complain about things he  
20 doesn't have that he needs before the case gets ready for an  
21 evidentiary hearing. So what is it that you need to do?  
22 What documents are left to be discovered? From where, from  
23 whom, and what depositions would you contemplate are  
24 necessary?

25 MR. GOLDBERG: Well, Your Honor, we have submitted

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1 document requests to the Debtors. We have issued document  
2 requests to DCG as well. DCG for many weeks was opposing to  
3 distribute -- to produce any documents and only just started  
4 to trickle in documents to us. We have issued a number of  
5 deposition requests to both the Debtors and DCG. We have  
6 seen --

7 THE COURT: Well, how many folks do you want to  
8 depose?

9 MR. GOLDBERG: Well, I think we don't fully know  
10 yet, Your Honor, because we don't have all the documents  
11 yet. A key part of the issues here is whether there were  
12 valid security interests created and the assets that are  
13 subject to the claim. And the Debtors are arguing in their  
14 objection that the security interests are created by virtue  
15 of chat messages that they attached in reams of  
16 communications among over a dozen people on these strings.  
17 We need the opportunity to look at those, the deposed people  
18 who were on those text messages or in chat room messages,  
19 and then decide whether we may need more.

20 I think the -- and another key issue here, Your  
21 Honor, is there is no one on the Three Arrows' side who has  
22 any historic knowledge of these facts. The Debtors have had  
23 access to these people for months. We have had zero access  
24 to anyone with actual knowledge of these facts. There is a  
25 huge information asymmetry, and that is a key reason why the

1       Debtors are pushing forward for this schedule on an  
2       expedited basis. Your Honor, it isn't --

3                   THE COURT: I don't want to dissuade you from a  
4       high opinion of yourself. They're pushing forward with this  
5       because that's what Debtors do in large cases. They push  
6       forward with things. You're not the first request that I've  
7       gotten for things that need to be done yesterday. We were  
8       talking about FTX only a month ago in this similar vein. So  
9       I don't think it's designed to make it so that you can't  
10      litigate appropriately. And obviously, we'll make sure that  
11      you can. So can you identify for me at this point how many  
12      witnesses you would anticipate deposing?

13                  MR. GOLDBERG: I don't know that we have a  
14      specific number that we can identify yet, Your Honor, until  
15      we've had the opportunity to review the productions from  
16      both Genesis and DCG. We've also seen four fact  
17      declarations, some of which could potentially be argued to  
18      the expert declarations attached to the motion, including  
19      one that focuses on safe harbor issues. Those are complex  
20      and highly technical issues that will require, and we will  
21      have to consider whether experts are needed on our side on  
22      some of these issues.

23                  THE COURT: All right. And let me interrupt for a  
24      second and ask Mr. Barefoot the status of production, when  
25      the Debtors anticipate getting any remaining documents out

1 to Three Arrows Capital.

2 MR. BAREFOOT: Your Honor, we anticipate making a  
3 supplemental production this week. And then absent an order  
4 on a motion to compel from the Debtor's perspective of our  
5 productions, our production will at that point be  
6 substantially complete. As Mr. Goldberg alluded to, we have  
7 a number of documents we have not received from them, but  
8 that's I think an issue for another day. If I could also  
9 just point very briefly, Your Honor, to your question about  
10 witnesses, Latham did --

11 THE COURT: Well, let me just -- I'm certainly  
12 going to give you a chance to respond.

13 MR. BAREFOOT: Okay.

14 THE COURT: I want to let him finish first, but I  
15 just wanted to get that bit of facts so I can --

16 MR. BAREFOOT: Of course.

17 THE COURT: -- factor it into the discussion. All  
18 right. Am I -- I think I heard the Committee saying earlier  
19 that they viewed the request to be largely duplicative of  
20 what was asked of the Debtor, and that may be the case. It  
21 doesn't mean you're not entitled to ask, but I guess we can  
22 sort that out. Do you anticipate any other document  
23 requests on behalf of Three Arrow Capital from any other  
24 parties?

25 MR. GOLDBERG: We don't anticipate serving other

1 parties at this time. No, Your Honor.

2 THE COURT: All right. All right. Counsel,  
3 anything else you wanted to address in the context of  
4 thinking about a schedule?

5 MR. GOLDBERG: Your Honor, I think I can provide  
6 more clarity based on a sidebar with my team that we would  
7 anticipate at a minimum five to ten depositions on the fact  
8 side plus depositions, and that there is, from our  
9 perspective, a high degree of analysis that will be required  
10 of the communications that the Debtors are arguing creates  
11 an authenticated security interest. And we need the  
12 opportunity to depose the people who supposedly were  
13 receiving those authenticated messages.

14 THE COURT: All right. All right. So Mr.  
15 Barefoot, let me hear your response.

16 MR. BAREFOOT: Your Honor, I will be brief. In  
17 terms of witnesses, I'm not sure where the numbers that we  
18 just heard came from. Because in the pleadings that Latham  
19 filed yesterday, they said it would be 130(b)(6), three  
20 employees, and an individual from DCG. That's at Paragraph  
21 24 of their objection filed yesterday. I also wanted just  
22 to clarify in terms of closing the loop on the universe of  
23 documents. I acknowledge that Mr. Goldberg has served third  
24 party discovery requests on DCG. And we have confirmed with  
25 them and gotten assurances that they will complete their

1 production by our proposed September 20th deadline for fact  
2 document productions.

3 In terms of these -- Mr. Goldberg's point about  
4 the need to analyze these Telegram chats and voluminous  
5 communications that were appended to our objection, they  
6 have had those documents since April, and we have produced a  
7 number of related correspondence around those. So I believe  
8 that they have and have had everything they need to do that  
9 analysis.

10 I think those are the main points. The only other  
11 point I wanted to cover, Your Honor, is in terms of Mr.  
12 Goldberg saying that distributions won't be completed for  
13 years. What he's referring to there is the maturity dates  
14 on the notes that DCG contemplates contributing under the  
15 settlement arrangements. But completing, you know,  
16 repayments and maturity of a new debt instrument is  
17 certainly different from making initial distributions under  
18 a plan. So we anticipate and are working towards making as  
19 many distributions in as large a volume as we can on the  
20 initial effective date.

21 THE COURT: All right. All right.

22 MR. GOLDBERG: Your Honor, if I may make one or  
23 two remarks?

24 THE COURT: Yeah, briefly.

25 MR. GOLDBERG: Yes. Thank you. Your Honor. While

1 we may have had communications that were provided by the  
2 Debtors, we have not had access to any of the witnesses in  
3 order to depose them to date. There are outstanding  
4 disputes over our document requests, which will require  
5 resolution by this court. And so far, based on the  
6 discussions of the parties, will like require Rule 2004  
7 motion against DCG to compel them to produce documents and  
8 witnesses.

9                   And I would add in conclusion, Your Honor, that  
10 these claims of Three Arrows are one of, if not the largest  
11 asset of the Three Arrows estate, which basis recoveries  
12 that are far lower than those that are projected in this  
13 case. The Creditors of Three Arrows are -- deserve due  
14 process on these claims, which includes a fulsome  
15 opportunity to present and litigate the question of  
16 solvency. We are also facing parallel litigation on these  
17 same issues and other Chapter 11 cases where the Three  
18 Arrows estate has claims, including the places -- the case  
19 of Block Fi, which is we are currently facing a claim  
20 objection and estimation motion.

21                   We also have similar claims that were filed in the  
22 Celsius and FTX cases and against other parties that are not  
23 in Chapter 11. These matters are all running in parallel,  
24 some of which are on timelines outside of our control.  
25 We're -- the -- that is one of the main reasons why we filed

1 the stay motion in order to have a centralized forum for  
2 these issues.

3 And what, Your Honor, we're proposing is that we  
4 advance back discovery and then move onto expert discovery  
5 as quickly as possible. And we hold the hearing on the stay  
6 motion without any delay in the ongoing discovery and  
7 litigation process. And the schedule that we have proposed,  
8 Your Honor, is something that we put a lot of thought into  
9 how to move these cases as quickly as possible, Your Honor.  
10 And in contrast to other cases where we have worked out  
11 schedules for similar preference claims that run in years.

12 THE COURT: All right. So --

13 MR. GOLDBERG: Thank you, Your Honor.

14 THE COURT: -- a couple of observations. One is  
15 there's reference to the stay motion was filed today. I  
16 don't have it. I haven't read it. It's not in front of me,  
17 and so I can't really rely on that or factor that into my  
18 decision for purposes of setting a schedule here.

19 Like all judges, I find that the theoretical is  
20 much more difficult to determine than the actual. And by  
21 that I mean talking about what theoretically something may  
22 look like, particularly at the beginning of a discovery  
23 process versus what it actually turns out to look like is  
24 another thing entirely. And so the idea that all judges I  
25 think have is that discovery should commence, and things

1 should happen, and documents should get exchanged, and  
2 people should get deposed.

3 And then the universe of potential things to  
4 address and concerns that may exist become either real and  
5 tangible that we can deal with, or they melt away. And so  
6 the theoretical is -- I understand why Three Arrows Capital  
7 is discussing it, but it's just not that helpful at this  
8 point because I don't know what's going to happen and nobody  
9 knows what's going to happen in terms of something like, you  
10 know, various defenses that may be raised. And you don't  
11 know whether you have the fact to assert them yet. It's too  
12 difficult to figure that out now.

13 So what -- I think January is too far out. I  
14 think November is the -- the date proposed of November 6th  
15 is probably too soon. But I think that fact discovery  
16 should be something that can be substantially completed in  
17 the next 30 to 60 days in terms of getting documents  
18 together and deposing folks so that we can have a conference  
19 then at the end of December after September, October, and  
20 part of November go by and figure out what an actual  
21 procedure looks like. At that point, people will say -- and  
22 again, I don't know what level of expert testimony is  
23 appropriate or not, and I suspect people don't either yet.

24 So my thought would be to get fact discovery done  
25 now in the next 60 days. That doesn't seem like an

1       inappropriate thing to get done in September and October and  
2       through that November 6th date, and then schedule a  
3       conference shortly after that to figure out where we are and  
4       what else needs to be done to have a hearing. And that  
5       leaves open the possibility we'd have it for the end of the  
6       year. But it's also flexible enough that we'll see actually  
7       what problems -- what actual problems we're confronting at  
8       that point.

9                   So what that will mean is that we'll need a date.  
10          And I think Mr. Barefoot provided one for sort of his side  
11          of the V in terms of when folks are going to get their  
12          document productions completed. And so we'll need a date I  
13          think from Three Arrows Capital as to when it's going to get  
14          its document production completed. And then I think you can  
15          work through that in September, and then work through  
16          depositions in October, particularly probably the latter  
17          half of October. So that's how I would see a discovery  
18          schedule working going forward, and then I think we can have  
19          a conference on the -- I would even be open to having a  
20          conference sometime in the end of October to touch base.  
21          It's often helpful to have one before discovery ends just to  
22          give parties a vehicle and an opportunity to be heard on  
23          issues that have come up rather than having to file motions  
24          in the first instance.

25                   And so I'd be open for that if we wanted to pick

1 something perhaps the last week in October to have a  
2 conference and to touch base and see where we are. And then  
3 we'll set some schedules after that to figure out where we  
4 go from there to completion. So that's what I would  
5 propose. And so, Mr. Barefoot, any thoughts?

6 MR. BAREFOOT: That's understood, Your Honor, and  
7 we will work with Mr. Goldberg and with your chambers to get  
8 a status conference date in October, and we will continue to  
9 proceed with the discovery in the interim.

10 THE COURT: I can probably give you one now if  
11 that's helpful. So I'll throw some out, and then you all  
12 can talk about what works for you because I think this  
13 should all go into an order. So October 25th, 10:00.  
14 October 31st is another one. I don't know what dates this  
15 case might already have or be contemplating getting for  
16 October. So it may be that it's productive to stick it on a  
17 date that we're going to use for an omnibus hearing date,  
18 but I'm not sure. Ms. Ebanks might know, but I'm not -- I  
19 don't have it in my head. So I'll leave you to think about  
20 scheduling, but the idea is to pick a date sometime in the  
21 last week of October.

22 MR. BAREFOOT: Understood, Your Honor.

23 THE COURT: So let me ask Mr. Goldberg, any  
24 thoughts from you?

25 MR. GOLDBERG: Thank you, Your Honor. Your

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1 direction is clear, and we will work with Mr. Barefoot on  
2 filling in an order and scheduling with chambers.

3 THE COURT: All right. Thank you very much. All  
4 right. With that, I believe we are ready to move forward  
5 with exclusivity, unless I've skipped something on the  
6 agenda. In which case, you will helpfully remind me of  
7 that.

8 MR. BAREFOOT: I believe that's correct, Your  
9 Honor, and Mr. O'Neal from Cleary will be handling the  
10 exclusivity presentation.

11 THE COURT: All right. Mr. O'Neal?

12 MR. O'NEAL: Good afternoon, Your Honor, again.  
13 Thank you very much. Sean O'Neal, Cleary Gottlieb on behalf  
14 of the Debtors. I guess this agenda item is Agenda Item  
15 Number 5. It is our second request to extend the exclusive  
16 right to file the plan and the exclusive solicitation  
17 period. Your Honor, from the beginning of this case, our  
18 goal has been to give Creditors a choice, a choice between  
19 litigation with DCG and appeal with DCG. You may recall  
20 that on the first day of the case we filed a plan that would  
21 provide for litigation. And then shortly thereafter, we  
22 were able to negotiate a deal with the Ad Hoc Group and DCG.

23 We call it the February 2023 term sheet. That  
24 would've provided for a consensual resolution. That deal  
25 died on the vine, but we kept trying. We kept trying to

1 come up with a proposal that the Creditors would negotiate  
2 alongside of the Debtors. This is not a case where the  
3 Debtors simply negotiated a deal and then told the Creditors  
4 to take it or leave it. The Creditors have been alongside  
5 of us from day one.

6 And since the appointment of the Creditors  
7 Committee, we've been working hand in hand with the  
8 Creditors Committee, the only other fiduciary in this case,  
9 to see if we could reach a resolution. We have facilitated  
10 multiple in-person meetings among the various Creditor  
11 constituencies and the Creditors and DCG principals. We've  
12 had multiple rounds of mediation. Some of those were led by  
13 a former bankruptcy judge, Judge (Indiscernible). Those  
14 efforts over the past few months involve representatives of  
15 the Creditors' Committee, the Ad Hoc Group, and Gemini at  
16 every step.

17 And eventually that led to an agreement in  
18 principal with the only other fiduciary in this case, the  
19 Creditors' Committee. We announced that agreement in  
20 principal on August 29th. Now, we don't have a deal with  
21 the Ad Hoc Group or Gemini, but we are trying. It's not a  
22 perfect deal, but it is a deal that the estate fiduciaries  
23 have negotiated. We view that the alternative to our deal  
24 is litigation. That litigation could take years with  
25 uncertain requests.

1                   And ultimately, the Debtors believe, as I believe  
2       the Creditors' Committee believes, is that a deal in  
3       principal is better than litigating. We also believe it's  
4       better than the February 2023 deal that was negotiated by  
5       the Ad Hoc Group. But we're not here to force any deal on  
6       any party. The Creditors will have the opportunity to give  
7       an up or down vote on the deal that has been negotiated as  
8       it may be modified along the way.

9                   Now, before I get to kind of the argument about  
10      our exclusivity extension, I do want to mention another  
11      issue, and that's an issue that really hasn't come before  
12      the Court just yet. There are a variety of intercreditors.  
13      This case is not just about the potential claims against the  
14      parent and PCG, but it also involves an accreditor issue.  
15      Here we have various types of lenders. We have dollar  
16      lenders, we have BTC lenders, we have HEEP lenders, we have  
17      alt coin lenders, and we have stable coin lenders.

18                  They all have different perspectives about what is  
19      the best approach for this Chapter 11 case and for the  
20      distribution mechanics. And one of the greatest  
21      complications that we have faced, and that the Creditors'  
22      Committee has faced is how to deal with these issues. That  
23      has been important to the Creditors' Committee to the Ad Hoc  
24      Group to Gemini and all of us.

25                  We all agree that the goal should be to maximize

1       in-kind distributions so that Creditors get the kind of  
2       currency or digital asset that they lent. That is our  
3       sincere desire, and it's complicated by a variety of  
4       factors. And so I just want the Court to know that behind  
5       the scenes what you haven't seen is there -- is this  
6       tremendous intercreditor discussion.

7               Now, let's turn to the exclusivity request. This  
8       is not a confirmation hearing. To meet the standards for  
9       extension of exclusivity, we just have to demonstrate a  
10      reasonable prospect for filing a viable plan. This is not a  
11      debate about our Chapter 11 plan or whether that will  
12      ultimately prove confirmable. That's a question that will  
13      be answered through the voting process. Yes, we do have an  
14      agreement in principal, and that was not easy task, but  
15      that's not really what is being heard today.

16               What is being heard today is a request to extend  
17      our exclusivity period, our second request. Now,  
18      admittedly, we have a lot of challenges in this case. As  
19      you have seen, the reaction to the agreement and principal  
20      has not been universal pleasure, but that does not mean that  
21      we are not entitled, and that the estate should not be  
22      granted and extension of the exclusivity. To the extent  
23      that people have issues with the proposed agreement and  
24      principal, we can deal with that at confirmation.

25               We have tried to negotiate the best deal possible.

1 It's the best deal we could negotiate, and now we need time  
2 to pull the documents together and bring something to the  
3 Creditors to vote on. This will be also a complex  
4 intercreditor negotiation. We need to finalize the  
5 distribution mechanics for example. This is critical to the  
6 Creditors' Committee as you saw in its pleading. We're very  
7 close to reaching agreement on those issues, but it will  
8 take some time.

9 There is a divergence of views, and we believe  
10 that the intercreditors use our best resolve by the  
11 fiduciaries in the case, the Creditors' Committee and the  
12 Debtors working hand in hand. And we're committed to work  
13 with the other parties in interest as well, not just the  
14 Creditors' Committee.

15 Now, Your Honor, we believe that having competing  
16 plans at this stage after only our second request when we've  
17 made so much progress with the only other fiduciary on the  
18 case would be a mistake. Having BTC and Dollar and the HEEP  
19 Creditors filing competing plans would not be helpful to the  
20 estates. We don't need an alternative plan right now that  
21 provides for a cash-out mechanism because that's what our  
22 plan provides for. We have a cash-out mechanism.

23 We're also considering other things that we could  
24 do to allow Creditors to make a choice, make a choice  
25 between the litigation approach or settlement. But the fact

1       is, is that as we go forward, Creditors will have the  
2       ability to vote whether or not they would accept the plan,  
3       the agreement of principal that has been proposed and  
4       negotiated by the Creditors' Committee and the Debtors.

5                 Now, I do want to spend just a few minutes on some  
6       of the points that the objectors have made. In particular,  
7       the Brown Rudnick Group has suggested a cash-out option. We  
8       actually like the cash-out option where we've actually  
9       included that concept in the deal and principal. One of the  
10      big differences between our cash-out option and the Brown  
11      Rudnick Group's cash-out option is it doesn't require the  
12      payment of \$38 million in fees. We think that that fee  
13      would be too extensive, and that we really just don't need  
14      it. Because what are we talking about? We are talking  
15      about part of it. The key aspect of it is pursuing  
16      litigation in respect of the \$630 million made maturities.  
17      That's a simple breach of contract action. And fact, we've  
18      commenced that action today.

19                 Now, at the time that we received the Ad Hoc  
20      Group's proposal -- I'm sorry, the Brown Rudnick Group's  
21      proposal -- it's hard to keep them straight because there's  
22      so much overlap between them, but at the time that we  
23      received the Brown Rudnick Group proposal, we ran mediation.  
24      We were at the table with Gemini, and we were at the table  
25      with other Creditors as well. And we spoke with the Ad Hoc

1 Group, and we spoke with the Creditors' Committee. And at  
2 that point in time, people were not particularly interested  
3 in approaching that. They wanted to finish the mediation.  
4 And that's fine.

5 And as we said in our pleading in our reply, we  
6 held off filing what is known as the turnover action until  
7 just today because Creditors who were part of the  
8 negotiations wanted us to hold off on filing that complaint.  
9 Not all of them, but many of them. There was a concern that  
10 pursuing a turnover action at that time would force DCG, who  
11 owed us and continues to owe us a lot of money, \$630  
12 million, that causing them or that filing a turnover action  
13 would cause them to have to refinance their debt.

14 And refinancing the debt at that point in time  
15 would lead to onerous terms, high interest rates, very  
16 strict covenants, large lender fees, basically consideration  
17 that should've gone to the DCG Creditors and not to a new  
18 third party lender. And on top of that, I think we all were  
19 concerned that bringing in another party, a third party  
20 lender, would be problematic to our negotiations.

21 And lastly I would say, Your Honor, we didn't file  
22 that turnover complaint because we were having negotiations  
23 with DCG. And they were productive, and they were fruitful,  
24 and there was a concern by many Creditors that pursuing that  
25 turnover complaint at that point in time would have

1 disrupted the negotiations and would've caused people to  
2 focus on litigation. For those reasons, we held off on the  
3 turnover complaint. Now as you may have seen, Your Honor,  
4 you probably didn't because it was just filed, we have filed  
5 the turnover actions.

6 Now, as part of the turnover actions, we've been  
7 engaged in discussions as demonstrated and described in the  
8 Agreement of Principal for a partial repayment agreement.  
9 The idea behind the partial repayment agreement is to get  
10 downpayments on the amount that DCG owes and to basically  
11 hold off on exercising rights while we continue to try to  
12 prosecute the plan.

13 We're very close to finalizing that partial  
14 repayment agreement. And to the extent that we do reach an  
15 agreement on that, then we will stay the turnover actions.  
16 But the idea behind filing the turnover actions is to keep  
17 parties moving, and that's been our goal throughout this  
18 entire case is to keep parties moving. Set up deadlines,  
19 try to keep parties moving.

20 Before I cede the podium, I do want to say a  
21 couple of other things as it pertains to the objecting  
22 parties. We have an unusual situation, and I'm sure Your  
23 Honor has observed this. What we have in this case is we  
24 have multiple parties appearing twice in these Chapter 11  
25 proceedings as part of different groups. Normally, Your

1 Honor, you would see that. You would have complete vision  
2 into when you have one party appearing in one name and then  
3 appearing in another name.

4 But here, we don't have that visibility, at least  
5 from a public perspective, because the 2019 statements are  
6 redacted. And when people file pleadings, they are not  
7 saying who they are representing. And that's fine, but we  
8 have to be wary. We have to be wary. For example. Gemini  
9 has appeared on its own in this case, but it's also a member  
10 of the Brown Rudnick Group.

11 The Brown Rudnick Group and Gemini are making  
12 identical arguments. Perhaps not surprising coming from  
13 Gemini, the twins, but they are making identical arguments.  
14 And what is even more problematic is that Gemini doesn't  
15 even have voting rights. So they are -- the Brown Rudnick  
16 Group is saying we hold \$1.5 billion in claims, but they  
17 don't have voting rights with respect to those claims, and  
18 it's duplicative of the existing objection that was filed by  
19 Gemini.

20 Another interesting thing about the Brown Rudnick  
21 Group, Your Honor, is that the bulk of its members are  
22 actually members of the Ad Hoc Group. We've already  
23 appeared by virtue of the Ad Hoc Group. I think there are  
24 eight crossover members, so they're also appearing twice;  
25 once as an Ad Hoc Group member and once as a Brown Rudnick

1 Group member. And when you look at the list, it turns out  
2 that there are only three distinct members of the Brown  
3 Rudnick Group, and they hold perhaps, you know, five percent  
4 of the outstanding claims. They don't hold the \$1.55  
5 billion. They hold a much smaller portion.

6 So what we have is we've kind of built a bit of an  
7 echo chamber, and I think it's just important to acknowledge  
8 that we have multiple parties appearing multiple times under  
9 different names. So where do we go from here? I think we  
10 are on a path to a viable plan. It's been negotiated among  
11 the estates' fiduciaries. This is only our second request.

12 MAN 1: (Indiscernible).

13 MR. O'NEAL: And it's a short request.

14 THE COURT: Somebody appears to have an open line  
15 at the hearing, and so they need to mute their line.

16 MAN 1: Okay.

17 THE COURT: Or we will mute it for them. Thank  
18 you.

19 MR. O'NEAL: Your Honor, it looks like it was me.  
20 So what I was just saying is that we are on the path for a  
21 viable plan. We've negotiated an agreement in principal  
22 with the estate's other fiduciary. Creditors will have a  
23 chance to vote on that settlement if it goes forward.  
24 Sitting here today, we don't know how Creditors will vote.  
25 I think we all know that there's uncertainty. And when

1 people look at the dark staircase of litigation, they may  
2 choose settlement over litigation. We don't know.

3                   Certainly that has been what the fiduciaries have  
4 been focused on is trying to reach a resolution. And so  
5 right now, Your Honor, we do need some time. We need some  
6 time to finish up the documentation. We need some time to  
7 complete --

8                   MAN 2: Time is up.

9                   MR. O'NEAL: -- (indiscernible) principals.

10                  MEM 2: Time is up.

11                  THE COURT: All right. I don't know who is  
12 talking, but time is not up. Counsel is talking in a  
13 hearing on a motion, and so you need to mute yourself and  
14 keep quiet please unless there comes a time where the  
15 microphone in the virtual hearing is given to you. Thank  
16 you.

17                  MR. O'NEAL: All right, Your Honor. I think I was  
18 muted, but I think you probably muted everyone. So I'm back  
19 on.

20                  THE COURT: You're back on. And just -- let me  
21 make a more soft pitch. We're having this virtual hearing.  
22 And by having a virtual hearing, we allow a lot of people to  
23 participate remotely. I know there are a lot of people who  
24 have invested, and a lot of people are interested in the  
25 case, and it's one of the benefits of having a virtual

1 hearing.

2 On the other hand, it doesn't take too many people  
3 to make a virtual hearing impossible to conduct. At which  
4 point then we'll have to have these hearings in person, and  
5 our ability to do things virtually may be circumscribed for  
6 the detriment of the larger group. So please, it is very  
7 much a help-us-to-help-you kind of moment. And so I urge  
8 people to behave appropriately while we carry out this  
9 virtual hearing. So Mr. O'Neal, if you would finish up, and  
10 then I'll hear from other parties.

11 MR. O'NEAL: And Your Honor, I think I am  
12 finished. I was just saying that we just need additional  
13 time. It's not that much time to continue the work, to pool  
14 together the documents, to pool together the distribution  
15 mechanics, and to try to finalize the arrangements to the  
16 best that we can. And then to allow Creditors to vote.  
17 Thank you.

18 THE COURT: All right. So at this point, I think  
19 it makes sense to hear from the Committee, and then I'll  
20 hearing from the objecting parties. So Mr. Shore?

21 MR. SHORE: Thank you, Your Honor. Chris Shore  
22 from White and Case on behalf of the official committee.  
23 Rather than tie through the exclusivity extension factors  
24 and what constitutes cause, I thought I'd pick up on what  
25 Your Honor did in scheduling this hearing on the agenda

1 today, which is try to get a better understanding of where  
2 the case currently stands and where it's going and apply  
3 that to the exclusivity factors to see if an extension is  
4 warranted.

5 Let me start here. Every big case these days  
6 seems to have a hearing that becomes known as the  
7 exclusivity hearing that usually marks the tipping point of  
8 a case. And in my experience, very few large Chapter 11  
9 Debtors make the run from a filing to a plan confirmation  
10 hearing without having material exclusivity objections.  
11 That's not a bad thing. Objections signal meaningful  
12 Creditor involvement in determining their own fate in the  
13 case. And as a Committee, we welcome Creditors' points of  
14 view with respect to how a case should proceed.

15 But this modern exclusivity objection phenomenon  
16 tends to be driven in -- by a few factors in cases like  
17 these. One, Creditor mistrust or dissatisfaction with  
18 Debtors in their agenda; two, disagreements over how best to  
19 create distributable value for Creditors; and three,  
20 disagreements over how best to distribute distributable  
21 value to Creditors. And this case has all three of those  
22 facts present right now. In fact, this case may be the  
23 exclusivity hearing in this case.

24 Let me focus on mistrust. From the beginning of  
25 this case, as Your Honor has seen from even the emails you

1 talked about today, there has been real and vocal and  
2 repeated expressions of mistrust of the Debtors and their  
3 connections to DCG. And despite the passing of time and the  
4 goldfish bowl aspects of Chapter 11, there is still a  
5 meaningful amount of Creditor sentiment that DCG stole their  
6 money, that the Debtors allowed their money to be stolen,  
7 and that this whole Chapter 11 case might be seen as a means  
8 to get DCG a release.

9               Okay. We can all see that. And to some extent,  
10 the Debtors and DCG did actively earn their Creditors'  
11 distrust in a couple of ways. But to that end, one of the  
12 primary activities of the Committee from day one has been  
13 the investigation of Creditors' claims and concerns with  
14 respect to the DCG involvement in the case and the Debtor's  
15 involvement in the DCG machinations pre-petition.

16               So for the past eight months, there has been no  
17 love lost between the Committee, the Debtors, and the DC --  
18 and DCG in conducting that investigation. To be clear, our  
19 work was always practically constrained by what I mentioned  
20 on the first days, an overwhelming Creditor desire to  
21 velocity of actual distributions in a plan. And obviously a  
22 longer investigation would've allowed for the turning over  
23 of more rocks, though from our view not necessarily to any  
24 additional value.

25               But with that time constraint in place, we put a

1 full-time team of seasoned litigators on the matter, many of  
2 whom have in fact litigated cases against Debtor parents and  
3 shareholders in cases much like this one. We obtained and  
4 reviewed 80,000 emails, texts, board presentations, and  
5 financial documents. We held multiple calls per week with  
6 the Debtors between attorneys and FAs. We've had multiple  
7 meetings both with advisors and principals with DCF, both in  
8 and out of mediation.

9 Through that process, we found claims that the  
10 Debtors never identified. We developed better evidence for  
11 what was identified, and now, based on all of that, the UCC  
12 feels it is in a unique position to assess the risks and  
13 rewards of litigation against DCG where one might test out  
14 the merits of the mistrust that people have.

15 Two, despite our work and vantage point, there  
16 remains a significant amount of Creditor dispute as to how  
17 best to maximize the value of the claims against DCG. In  
18 fact, there seems to be the centerpiece of today's hearing  
19 is the DCG settlement the best way to proceed, or should we  
20 just litigate. In other words, the merits of a plan process  
21 going forward, which isn't really up, but let's address that  
22 for a second.

23 As the fiduciary, not for the estate but for  
24 unsecured Creditors that has done the work, has reviewed the  
25 confidential documents, has met with the targets, has

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1 advised the clients, we believe this settlement should be  
2 consummated with one caveat, which I'll get to in a bit.  
3 And the reason we feel that way is not a day issue, but  
4 anyone who thinks litigation is a better option, including  
5 DCG, needs to have informed realistic expectations about the  
6 velocity and cost about the company litigation, the timing  
7 and character of actual distributions following entry of a  
8 final order, and the ability of DCG to pay a judgment  
9 outside of its own restructuring among other factors.

10 I'm not speaking for individual members. I'm  
11 speaking for the UCC, and the UCC as a whole has weighed all  
12 of that and come to our conclusion. Settlement in our view  
13 is a better option. And I supposed today we'll hear from  
14 those who have come to the opposite conclusion by not having  
15 looked at the documents or done the work that we've done.  
16 So be it.

17 The third factor usually present at the  
18 exclusivity hearing in the case are disagreements over  
19 distribution mechanics. And as counsel said, we have that  
20 here in spades. While it is true we are largely one  
21 Creditor body of general unsecured Creditors given the wide  
22 array of pre-petition holdings between crypto and USD  
23 denominating claims, there has been substantial disagreement  
24 over who gets what and when. And having said that, I do not  
25 want to ignore, nor should anyone ignore, the hundreds if

1 not thousands of hours of work done by Creditors and  
2 Committee members trying to reach an equitable distribution  
3 scheme that all can support.

4 As of today, we're not there. And so the  
5 Committee believes we are at the tipping point in these  
6 cases with only three ways for this case to tilt. People  
7 haven't said it, but given the audience we have for this, I  
8 think we all need to understand what doomsday is. If there  
9 is no Creditor support for a plan in any form, we don't --  
10 we exactly half want to litigate it, exactly half want to  
11 settle, this tips to a Chapter 7 conversion.

12 Your Honor's not, I believe, going to be patient  
13 sitting in Chapter 7 interminably. And based upon the  
14 liquidation analysis appended to the draft disclosure  
15 statement, which the Committee has reviewed and signed off  
16 on, a Chapter 7 Trustee liquidates all crypto and makes cash  
17 distributions. I.e. there will be zero in-kind  
18 distributions by a Chapter 7 Trustee. And two, the Trustee  
19 settles with DCG regardless of whether any particular  
20 Creditor wants that deal or not and then distributes cash.  
21 That's the purview of the Chapter 7 Trustee. So for anybody  
22 who's taking the position that there should be no deal at  
23 all, the conversion risk is there. And that's all I'll say  
24 on that.

25 Two, another way this case can tilt is towards a

1 deal with all key players, what we would call a global peace  
2 deal. Practically for a global peace deal to materialize  
3 given where we are, two things have to happen. DCG has to  
4 put better economics on the table, and a critical mass of  
5 Creditors have to agree on how to distribute that value.  
6 But in the absence of actual votes for an actual DCG deal,  
7 option two isn't going to happen.

8 In other words, the UCC has formed the view that  
9 this settlement should be done, but this settlement has to  
10 be done in a plan. And if people aren't going to support  
11 it, we're not going to go ahead with a global settlement  
12 plan. There won't be a global settlement. So the only  
13 other option is a plan that distributes all cash and crypto  
14 on hand as of the effective date of the plan, preserves the  
15 DCG claims for post-effective date litigation, and moves on.  
16 What I would call the punt plan.

17 As I said, the Committee has detailed, informed  
18 views as to the risks and rewards of such a plan. But at  
19 the end of the day, the cynic (indiscernible) of a  
20 confirmable plan are the votes of those with actual money at  
21 risk. Even if they're being advised by counsel, which  
22 hasn't done the work, and even if they don't have financial  
23 advisors to advise them on the consequences of doing so,  
24 people get to vote on a plan.

25 And one last thing about a tipping point, and this

1 informs the Committee's views with respect to exclusivity,  
2 in a case like this it's impossible to maintain an  
3 equilibrium for any extended period. Forces of gravity will  
4 always just tilt this case towards one of those three  
5 options. Conversion, global peace plan, punt plan. So in  
6 adding all of this up, the Committee's position on  
7 exclusivity is three-fold.

8 First, there is cause to extend exclusivity. And  
9 we've come this far on a consensual global plan. I don't  
10 think there's any doubt that that plan would have material  
11 benefits for Creditors, and it deserves more oxygen and time  
12 to be concluded. Second, that said, exclusivity is now a  
13 matter of days, not months, and certainly not multiple  
14 months.

15 The Debtors have a very short window, say 30 days,  
16 to keep this case to the equilibrium and see if they can get  
17 consensus for a global peace plan to try to resolve the DCG  
18 contribution in a manner that brings the votes and try to  
19 resolve the distribution mechanisms in a way that prevents  
20 Creditor in-fighting and votes in opposite directions that  
21 cancel themselves out on the way to a conversion.

22 In that regard, the Debtors and the independents  
23 have to appreciate that DCG must put more on the table  
24 because a plan with Debtor and UCC support, but no actual  
25 votes is not a confirmable plan. And DCG (indiscernible)

1 part has to just deal with that. Because the no-deal  
2 scenario in our view is an existential crisis for that  
3 company.

4 But Creditors too have to get past the fight over  
5 fractions of pennies and how a distribution mechanism will  
6 occur, because for them, a conversion is an existential  
7 crisis in their recoveries. Third, one way or another, come  
8 October, the Debtors have to solicit a plan. Whether that's  
9 a global peace plan or a punt plan or some toggle hybrid, it  
10 needs to go out. These cases aren't getting better with  
11 age. And if they don't, if the independents refuse to  
12 solicit such a plan, then the Committee will be ready,  
13 willing, and able in mid-October to do so, and will have a  
14 confirmable plan ready to go.

15 So that's what I have for now. A short extension  
16 for exclusivity should be granted. Thirty days is tolerable  
17 at this point, but everybody has to understand that that 30  
18 days can't be more of the same shuttle diplomacy and what I  
19 consider to be what's going on, which is a parent stepping  
20 backwards in the pool and requiring kids to swim further.  
21 So unless Your Honor has questions, that's the Committee's  
22 position.

23 THE COURT: Thank you very much. So let me hear  
24 from the objectors.

25 MR. SAZANT: Thank you, Your Honor. For the

1 record again, Jordan Sazant of Proskauer Rose on behalf of  
2 the Ad Hoc Group. You know, I would like to start just by  
3 echoing much of what Mr. Shore just said. And I think the  
4 gravitas of what Mr. Shore just said was that a plan agreed  
5 to by just the Debtors DCG and UCC is not a confirmable plan  
6 and does not have votes. The Ad Hoc Group, which represents  
7 \$2.4 billion in claims, has spoken and has majorities in  
8 each of the proposed classes except for, of course, the  
9 Gemini are in customer class, and does not believe that this  
10 is a supportable plan at this time.

11 Mr. Shore also said that DCG needs to put more on  
12 the table in order for this plan to become a confirmable  
13 plan, and we wholeheartedly agree. That is our position as  
14 well. So simply put, Your Honor, I think we just take away  
15 from that the opposite conclusion of Mr. Shore. And we  
16 believe that it's time for Creditors to take control of  
17 their own destiny.

18 This is not a typical Chapter 11 case with a  
19 reorganizing Debtor that needs to maintain business  
20 operations post-bankruptcy, and we believe that the Debtors  
21 have not met their burden of proof to demonstrate cause  
22 sufficient to extend the exclusivity periods further. These  
23 Debtors came into Chapter 11 with businesses that had  
24 already been non-operational for three months as a result of  
25 the fraud perpetrated upon the Creditors and the billions of

1       dollars' worth of (indiscernible) and crypto currency assets  
2       syphoned away by the Debtors' parent.

3                  In the ten month stint, the Debtors froze their  
4       operations. The Ad Hoc Group has worked collaboratively  
5       with the Debtors DCG, Gemini, and since it's appointment the  
6       UCC in an effort to reach a consensual plan framework that  
7       either provides fair value from DCG and resolution of the  
8       estate's claims and may be asserted against it or turns over  
9       control of the estate and those estate claims to Creditors  
10      to pursue appropriate remedies and recoveries.

11                 We believe based on the public update that was  
12       filed that it's now become clear that the Debtors have  
13       squandered their exclusive window to propose a confirmable  
14       plan that provides for a fair value from DCG. And the  
15       Creditors could be given the opportunity to formulate their  
16       own confirmable plan for consideration by the voting  
17       Creditors.

18                 To briefly touch upon the economic concerns of the  
19       Ad Hoc Group, it's uncontested that DCG owes \$1.7 billion to  
20       GGP just under the loan currency it imposed on GGP. And in  
21       fact, approximately \$630 million of that amount was due  
22       almost four months ago now. Mr. O'Neal represented to, and  
23       today we saw on the docket that the turnover action as it's  
24       been termed was filed about 15 minutes prior to this  
25       hearing.

1                   Of course I've not had an opportunity to  
2 thoroughly review to confirm that all of the relief that was  
3 requested by the Ad Hoc Group was included in that action.  
4 And that appears to not be the case as Footnote 7 states  
5 that the Debtors are not seeking the payment of late fees at  
6 this time. But its filing is a positive development in  
7 these cases, nonetheless.

8                   That said, the Ad Hoc Group desperately wants to  
9 prevent that victory from being (indiscernible) in nature.  
10 As disclosed in the public update and just referenced by Mr.  
11 O'Neal, the Debtors have reached an agreement in principal  
12 with the DCG and the UCC that proposes to forbear on this  
13 turnover action in favor of a pre-payment plan, and instead  
14 to extend the majority of these amounts that are owed  
15 already for another two years post-effective date, and to do  
16 so at a discount requiring DCG to pay only \$604 million in  
17 principal on account of its 630 million overdue and  
18 continuing to accrue.

19                  Not only that, but it proposes to do so for free  
20 because the token forbearance fee of .375 percent is  
21 credited against the pre-effective date payment. So it is  
22 entirely illusory. On top of all of these concessions to  
23 DCG, the Debtors propose not only to release all of the  
24 estate's valuable claims for fraud, alter ego liability, and  
25 more that Mr. Shore was describing having conducted thorough

1 investigations into without any additional compensation, but  
2 also to seek nonconsensual third party releases that may not  
3 be confirmable.

4 Our Creditors are the only parties with a  
5 financial interest in the outcome of these Chapter 11 cases,  
6 and they deserve to have their voices heard and the ability  
7 to propose their own Chapter 11 plan for consideration. We  
8 believe that this plan is not confirmable, will not receive  
9 an impaired accepting class. And I hear the comments that  
10 have been made throughout this hearing by Mr. Barefoot who  
11 said that the Creditors here are small Creditors for whom  
12 liquidity is important, by Mr. West for the UCC who said  
13 that they constantly hear from Creditors how imperative it  
14 is to recover their assets as soon as possible, and from Mr.  
15 O'Neal who just said that the debtors have reached the best  
16 agreement that they can reach.

17 Respectfully, we believe that this agreement is  
18 not proficient. And if this is the best agreement that the  
19 Debtors can reach, the Creditors should be able to move  
20 forward expeditiously, propose their own competing plans on  
21 the same timeline, and move forward, and to let Creditors  
22 determine which path they believe is the best path forward.  
23 Unless Your Honor has any questions, that'll be it for me.

24 THE COURT: All right. Thank you very much. Next  
25 objector?

1                   MR. AULET: Good afternoon, Your Honor. Kenneth  
2                   Aulet, Brown Rudnick for the Fair Deal Group again. You  
3                   know, I want to echo something Mr. Sazant said. For the  
4                   most part when Mr. O'Neal was talking about his actual  
5                   proposal to go forward instead of details of my group, I  
6                   agreed with many of the things he said. You know, Mr.  
7                   O'Neal promised that, you know, he's going to give Creditors  
8                   a choice here.

9                   You know, let me flip it a little bit back when he  
10                  said he's considering there's a way to give Creditors a  
11                  choice on litigation, but that's -- it's an important thing.  
12                  And also, what Mr. O'Neal and Mr. Shore said that, you know,  
13                  as we all know, cram down is an option in Chapter 11. And  
14                  the proposed deal and principal has four to five classes.  
15                  And it sounds like, and they can correct me if I'm wrong,  
16                  but Mr. O'Neal and Mr. Shore are not looking to cram down a  
17                  plan based on one class, which you know, would be a very  
18                  helpful thing to say.

19                  But let me back up a little bit. You know, my  
20                  group exists because, you know, we had a -- my clients had a  
21                  concern about where these negotiations were headed. And I  
22                  think that the, you know, deal and principal that was  
23                  announced on the 29th validated those concerns. The Debtors  
24                  didn't really want to talk very much about the economics of  
25                  this, but they have the burden here. They chose to put, you

1 know, this agreement and principal as one of their causes  
2 for extending exclusivity. And so I think it's important to  
3 look at it.

4 You know, another thing that Mr. O'Neal said today  
5 and in their papers was that the litigation to recover the  
6 past due amounts, the 630 million, is a relatively simple  
7 breach of contract action. We wholeheartedly agree with  
8 that. We -- it should've been filed a long time ago. Like  
9 Mr. Sazant, I had a chance to look over it, and I was  
10 troubled that it did not seek the late fees and accrued  
11 interest.

12 But I also want to talk a little bit more about  
13 those late fees and accrued interest because I had a little  
14 bit of time to do some rough math, and it looks to me like  
15 between the approximately 10 percent interest rate on the  
16 630 million owed and the 10 percent late fee that is accrued  
17 on top of that, every month that DCG has not been paying the  
18 estate it is owed \$10 million more. The Debtors propose to  
19 waive that entirely. We've had four months of no payment.  
20 That's over \$40 million left on the table by the Debtors,  
21 and that's not including the discount that they've offered  
22 to DCG of a little under I think 28 million.

23 So Mr. O'Neal and the Debtors say that this  
24 turnover action is a simple, simple breach of contract  
25 action. And why would anyone pay a \$38 million backstop fee

1 for it when they are proposing to weigh far more than that  
2 in their dealings. The estates -- every month we go by  
3 without getting that money back is an \$11 million gift to  
4 the parent company of the Debtor.

5 And the -- but this -- I think everybody would be  
6 happy if we got that 630 million back and the accrued  
7 interest and the accrued late fees, and there was no need  
8 for the facility. But let's get to the facility we offered  
9 because the facility we offered was an attempt to thread  
10 what Mr. Shore correctly identified as a very big problem in  
11 this case.

12 As the Debtors stated multiple times, there's a  
13 lot of people who need money back today for whom every  
14 months counts. And those people are the people who are  
15 looking at this and saying I need a deal with DCG, and I  
16 need it now. But the deal on the table proposes to give  
17 them a two-year note and a seven-year note. And what we  
18 proposed was, look, this is a simple breach of contract  
19 action. Very simple. Could've been done a long time ago,  
20 but it hasn't been done. We'll put up the money for it  
21 because we believe in this litigation.

22 It's always a problem when people come in to say  
23 that, you know, the settlement's wrong, it's not the right  
24 value. And the response is, well, what do you have at  
25 stake? How do you prove it? A group was formed and put up

1 -- is offering to put up the money to put their money where  
2 their mouth is. They believe in this litigation. They  
3 believe it is volume maximizing to the estate to get this  
4 litigation. And if anybody doesn't believe that, they want  
5 to take them out.

6 The Debtors are offering to essentially sell this  
7 incredibly valuable estate asset to DCG at what looks like  
8 less than even what is owed on an undisputed basis. And we  
9 want to beat that number. Frankly, we don't think that  
10 people should take our offer. We believe that they should  
11 believe as we do that you want to believe -- that you want  
12 to take this litigation. But people who need the money now  
13 take the money and, you know, we all continue the  
14 litigation.

15 And the distributions figures, you know, in this  
16 deal and principal were similarly troubling because, you  
17 know, the only way that I can make sense of these top ranges  
18 is if you're off -- if you're valuing the seven-year note at  
19 face value, and again, you know, Mr. O'Neal said what an  
20 independent lender would need to lend to DCG, high interest  
21 rates, onerous fees, and strict covenants, which is by far  
22 the most important thing he said. DCG is a terrible credit  
23 risk. The seven-year note, it is not worth 830 billion. It  
24 is nowhere close to 830 billion. Even if it gets some form  
25 of security, which completely undisclosed what the security

1 will be, completely undisclose what the covenants will be,  
2 but there is no note that we're going to have strict  
3 covenants.

4 Nor will we. The estates have cut a deal where  
5 DCG will get a release of all claims. Creditor claims  
6 involuntarily and estate claims for less than it owes today.  
7 It will pay tens of millions of dollars less on what the  
8 Debtors themselves characterize as a simple contract action  
9 that anybody could file and litigate. Why on earth is it  
10 going to agree to strict covenants when this deal is reduced  
11 from, you know, these deals -- this deal in principal to  
12 something in writing? It has -- it is one.

13 So that's where we come out on, you know, troubled  
14 that the Debtors delayed giving us an NDA until, you know,  
15 literally hours before filing this proposed deal and  
16 principal. You know, fortunately we've now had productive  
17 discussions over an NDA though. We still seem to be stuck  
18 on one point as of last night, but I'm hopeful that that  
19 will be resolved today. Because like Mr. O'Neal said, what  
20 we need here is choice. And that goes back to, as Mr.  
21 Sazant said, why exclusivity should end. Because this is a  
22 liquidating Chapter 11. We don't have a Debtor that's going  
23 to go back into business.

24 The case for a debtor-in-possession running the  
25 case is as weak as it can be in this kind of Chapter 11. So

1 liquidating Chapter 11, it is essentially a financial  
2 company, and virtually all financial companies are note even  
3 eligible for a Chapter 11. The so the real way forward  
4 here, as Mr. Sazant said, is for Creditors to negotiate a  
5 plan. I don't believe that liquidation is a real option  
6 here. I think that everybody realizes that there's enough  
7 value on the table that when Creditors get together, that we  
8 can get a resolution of these issues, and that we can get  
9 something on file.

10                 The Debtors are no longer a help here. This deal  
11 and principal, it was supported only by the UCC, and the UCC  
12 just announced that it is not (indiscernible). So the cause  
13 that the Debtors have come in here with isn't even a -- it's  
14 not even a settlement. What they needed to come in here and  
15 show as meaningful progress towards a confirmable plan.  
16 These intercreditor issues should've been first and  
17 foremost. They are the thing that you have to solve to get  
18 a plan done. You do not need to solve DCG to get a plan  
19 done. You must solve intercreditor issues, and the  
20 intercreditor issues were put to the side while a deal in  
21 principal with DCG was what we have here today. And it's  
22 just not confirmable.

23                 Mr. Sazant's group, as he said, represents, you  
24 know, majorities of all the Creditors (indiscernible). We  
25 are simply at the point where it is no longer helpful for

1 exclusivity to continue. Because what we are concerned  
2 about, again, is the months of delay. If we have a plan  
3 that tries to cram this DCG settlement down on the Creditor  
4 body, you know, even if the Debtor's discussion about, you  
5 know, we need local peace is interpreted to mean that  
6 they're not going to try and cram it down, if there's not a  
7 real choice between the DCG settlement and litigation, that  
8 is itself pressure on those Creditors who have to decide do  
9 I take this deal now, or do I start another three-month  
10 process to get a confirmed plan.

11 And that's why this case calls out for competing  
12 plans. If the Debtors want to believe that this deal is the  
13 best that they can do, let them put forward that plan and  
14 vote on it while letting Creditors put forward an  
15 alternative plan. And the choice that the Debtors talked  
16 about, the choice that they wanted to give their Creditor  
17 body, Creditors get a real choice, not the sort of Hobson's  
18 choice of take my deal or spend another three months in this  
19 bankruptcy case. A real choice where we have resolved the  
20 intercreditor issues, and the choice is up or down. Do you  
21 want to settle with DCG on these terms or not?

22 Because the answer is going to be no. Nobody is  
23 going to want to settle with DCG on these terms. A minority  
24 of Creditors might, and that's why what we put forward to  
25 try and solve and what we are hopeful that we can get, you

1 know, some actual traction on. But at the end of the day,  
2 what we believe in is that this isn't good enough. It's not  
3 a matter of, all right, this is seven years and six percent  
4 interest. How about six years and eight percent interest?  
5 That's not good enough.

6 This needs to be meaningful real value from DCG to  
7 avoid the litigation. And again, Mr. Sazant briefly touched  
8 on this, but this demands involuntary third party releases.  
9 And now that the supreme court has accepted cert in Perdue,  
10 even if the court confirms such a plan, it would need to be  
11 stayed until -- like Perdue's plan until the supreme court  
12 ruled on that issue. And so this plan is, again, a recipe  
13 for months more of delay.

14 THE COURT: All right. With that, let me hear  
15 from the last objecting party.

16 MR. FRELINGHUYSEN: Good afternoon, Your Honor.  
17 Anson Frelinghuysen, Hughes Hubbard and Reed, counsel for  
18 Gemini Trust Company, LLC, agent for over 232,000 Gemini  
19 lenders. Gemini opposes the Debtor's request for continued  
20 exclusivity because the time has come to permit greater  
21 Creditor control over this process. The professionals at  
22 today's hearing have been at this for months, and the good  
23 faith efforts of most involved to reach a deal should not be  
24 understated or devalued.

25 But the parties are no closer to a deal today than

1       they were when Mr. O'Neal first introduced the case to the  
2       court in January or when mediation started or when mediation  
3       was extended ten times, or when Mr. O'Neal said the parties  
4       were close at the end of July, nor when the Debtors with the  
5       UCC support published the so-called deal and principal with  
6       their parent Digital Currency Group at the end of August.

7                  The Debtors have staked the successful outcome of  
8       these cases on a resolution with their parent. The purpose  
9       of four months of mediation was to determine an appropriate  
10      level of contribution from DCG. Months later there are only  
11      vague contours of a deal with the parent described with the  
12      definitive documents apparently around the corner. The  
13      broad brush deal itself has been widely attacked by  
14      Creditors, and its finer details where the devil lurks has  
15      not even been disclosed, and potentially not yet even  
16      negotiated.

17                  But we are told again and again we are very close.  
18       The history of these cases tells us that we are not, and  
19       that we may never be with a counterparty like DCG. It is  
20       time to move outside the loop of doing the same thing while  
21       expecting different results. Gemini stepped out of that  
22       loop in July when it sued DCG for fraud and objected to  
23       Genesis' repeated requests for more extensions of the  
24       mediation period.

25                  At the same time on July 5th, Gemini wrote to the

1       Debtors urging them to sue DCG for the turnover of the  
2       estate property, an action the Debtors rebuffed for two  
3       months until today when faced with the loss of exclusivity.  
4       The Creditor body as represented by the Ad Hoc Group is  
5       starting to exit the loop as well. And as Mr. Aulet just --  
6       already explained, Gemini and a group of other Creditors are  
7       working outside the loop to introduce alternative structures  
8       that would bring near term recoveries to Creditors or allow  
9       them to go the distance against DCG and recover what they  
10      deserve.

11                  At its core, this case is a liquidating Chapter 11  
12      that will require significant Creditor support to achieve a  
13      confirmable plan. It is counterproductive to continue to  
14      keep Creditors at arm's length while a proposed plan is  
15      cooked behind closed doors. Gemini has been pushing the  
16      Debtors for months to share the terms of proposed deals for  
17      the purpose of gaining consensus among Creditors. They  
18      refused to disclose terms for months, and when they did, the  
19      overwhelming response was negative. A more productive  
20      approach is to allow the Creditors to lead the process to  
21      ensure that any deal that is ultimately reached will be  
22      palatable to the people that will need to vote on it.

23                  Gemini lenders, 232,824 of them, have been  
24      separated from over \$1 billion of their assets for nine  
25      months. Gemini's message to its lenders is clear. The

1       Debtors need to pay Gemini lenders back in full, and they  
2       cannot cut a deal with their parent that does not bring  
3       enough value to the Gemini lenders, and that potentially  
4       seeks nonconsensual third party releases with the Debtor's  
5       parents.

6                   Gemini will not stop advocating for the Gemini  
7       lenders and for a full recovery. These cases must move  
8       towards a resolution. The Court should terminate the  
9       Debtors exclusivity and allow the Creditors to propose their  
10      own Chapter 11 plan for consideration. Thank you.

11                  THE COURT: Thank you very much. Any other party  
12      that wishes to be heard before I circle back to Mr. O'Neal?

13                  JESSICA LIOU: Yes, Your Honor. Jessica Liou from  
14      Weil, Gotschal and Manges on behalf of DCG.

15                  THE COURT: All right. Briefly. I don't have an  
16      papers from your client, so I -- it puts us all in a bit of  
17      an awkward posture that we don't quite know what your  
18      client's going to say, but I'll give you a brief  
19      opportunity.

20                  JESSICA LIOU: Thank you, Your Honor. I  
21      appreciate that. I'll be very brief. I just wanted to  
22      correct a couple of misstatements that were made on the  
23      record and focus back on --

24                  THE COURT: Well --

25                  JESSICA LIOU: -- what we think is relevant here.

1                   THE COURT: Well, before you do that, I don't know  
2                   that this is the place to defend your client's honor. This  
3                   is an exclusivity motion. We're not here on the merits of  
4                   any of the settlements. And if I were to try to navigate  
5                   and have a record that was trying to reflect every party's  
6                   views about the ultimate merits of the settlement, that's a  
7                   very different hearing. So I don't think that that's a  
8                   productive rabbit hole to go down.

9                   Because I'm guessing, and I could be wrong, but I  
10                  think if you have some various things you're going to say,  
11                  you're going to elicit responses. And again, I think  
12                  they're going to be on the merits or demerits of various  
13                  aspects of settlement. And so I want to avoid that.

14                  JESSICA LIOU: Your Honor, I couldn't agree more.  
15                  I do not believe that the nature of this hearing warrants a  
16                  tit for tat. The merits of the settlement proposal, and  
17                  that's exactly where I do not intend to go. I did want to  
18                  reiterate, however, that the Debtors DCG and the UCC have  
19                  made good faith use of the time that has been provided by  
20                  exclusivity to reach this deal and principal.

21                  THE COURT: Well, but why don't I hear from Mr.  
22                  O'Neal on that? I mean, that's Mr. O'Neal's burden. So let  
23                  me do this. Let me hear from Mr. O'Neal. If there's  
24                  something that he doesn't cover that cries out for an  
25                  additional comment, I'll loop back to you. But I think it's

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1 really -- it's the Debtor's burden, and I think it should  
2 squarely remain there to keep -- we have a lot of parties  
3 already, and I want to keep my eye on the way these -- this  
4 kind of a proceeding should work. So let me hear from Mr.  
5 O'Neal. And if he's done and there's something that still  
6 cries out for comment, then I'll loop back to you. Mr.  
7 O'Neal?

8 JESSICA LIOU: Perfect. Thank you.

9 MR. O'NEAL: Thank you, Your Honor. Sean O'Neal  
10 on behalf of the Debtors. Since November, we have worked  
11 every day every hour to try to reach agreement with DCG and  
12 the Creditors. That has been our obligation. That's  
13 consistent with our fiduciary duties, and we've been trying  
14 relentlessly to get to an agreement.

15 When I heard the Creditors say that they want to  
16 control their destiny, frankly I'm frustrated because we've  
17 had them in the room with us the entire time. As I said,  
18 Your Honor, this is not a deal where we have negotiated a  
19 potential settlement in a vacuum. We've kept the Creditors  
20 in the loop. And in fact, we have created a platform for  
21 them to engage in direct negotiations. The deal in  
22 principal is the product of those direct Creditor-led  
23 negotiations with principals at DCG.

24 We've also reached a deal in principal with the  
25 Debtor's Committee fiduciaries. Like a representative of

1 the Creditor. The only other fiduciary is part of this  
2 deal, is part of this deal and principal. Now, there's work  
3 to do. Don't -- I'm not kidding you. There is work to be  
4 done, and we take that very seriously. But I want Your  
5 Honor to realize that we have been with the Creditors at  
6 every step of the way.

7 We can't force DCG to do an agreement to settle  
8 the claims in the way that all of the Creditors want. We  
9 can't force DCG to pay the Gemini lenders in full. What we  
10 can do is we can try to create a platform, and we can try to  
11 squeeze everybody and create as much leverage as we possibly  
12 can, and that is what we've tried to do, Your Honor.  
13 Because the other alternative is litigation. A long  
14 litigation. The plan that we filed on the first day of the  
15 case.

16 Now, in terms of the turnover actions, I do -- I  
17 think we need to correct some things. And I don't blame  
18 counsel because they haven't had time to look at the  
19 complaint, and that's okay. So I'm not going to criticize  
20 them, but we do need to talk about facts. And the facts  
21 are, is that the turnover complaint does in fact seek late  
22 fees for the digital loans. BTC. I think it's Count 3.  
23 There's two complaints.

24 We seek payment of late fees under the digital  
25 loans. We don't seek late fees for payment of the dollar

1 loans. There's a very good reason for that. Turnover, as I  
2 think Your Honor knows, can only be used for undisputed  
3 claims. There is a dispute with respect to late fees owed  
4 under the dollar loans, and I think Mr. Sazant knows that,  
5 and we've talked about it. And I think that -- I don't  
6 think there is any disagreement that turnover is for  
7 undisputed claims.

8 In addition, we don't seek payment of ordinary  
9 contract interests because DCG has been paying that. That's  
10 four and a half million dollars a month. DCG has paying the  
11 four and a half million dollars a month. You can bet if DCG  
12 had not been paying that, that would've been part of our  
13 turnover action.

14 On kind of smaller issue, I do want to just say a  
15 few things. On the NDA, at the time that the Brown Rudnick  
16 Group asked for an NDA, it's then existing two members had  
17 NDAs. So they didn't get another NDA, and we were  
18 negotiating in the context of a mediation. We actually had  
19 Gemini in the room under an NDA and a mediation order. And  
20 then in terms of the debt terms and the covenants, we're  
21 going to take care of that as part of the definitive  
22 documents.

23 You can bet that we're going to put as onerous  
24 terms as we can. We're going to try to limit DCG as much as  
25 we can. But we also realize that DCG is an important part

1       of the capital structure even if you litigate against them,  
2       you want them to be as strong as possible because of the  
3       source of recovery.

4               Lastly, I would just say in terms of the  
5       nonconsensual releases, folks have tried to make a big deal  
6       of that. We get it. We understand that the supreme court  
7       is ruling on or going to consider third party releases.  
8       That's why our plan will not make it a condition precedent  
9       that they get nonconsensual third party releases. We will  
10      have a severability clause. So we're -- a lot of what is  
11      being said today, frankly, I'm not so sure if people are  
12      taking it serious enough to consider that we have looked at  
13      all of these issues, and we are trying our hardest to create  
14      a plan, to create a platform that does provide as much  
15      recovery as possible given the other alternative of  
16      litigation.

17               So with that, Your Honor, we just renew our  
18      request. We would like to have an extension of exclusivity.  
19      We'll continue working with all of the objecting parties and  
20      try to reach an agreement on all of the key issues. Thank  
21      you.

22               THE COURT: All right. Any other party that  
23      wishes to be heard on exclusivity? All right. I'd like to  
24      take a five-minute or ten-minute break, and I will come back  
25      and render my decision. I -- rather than have everyone get

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1 off and then redial, which is an enormous hassle for all of  
2 you, I'm just going to mute my line and come back in about  
3 ten minutes. Thank you.

4 (Recess)

5 THE COURT: Before the Court is the Debtor's  
6 second motion to improve an extension of exclusivity at ECF  
7 Number 574. Three objections have been filed. One is the  
8 objection to the Ad Hoc Group of Genesis lenders at ECF 635.  
9 A second is the objection of Gemini Trust Company LLC at ECF  
10 Number 634, and the third is an objection of the Fair Deal  
11 Group at ECF Number 633. All objecting parties are  
12 unsecured Creditors of the Debtor. Debtors -- as the  
13 Debtors have made clear in their comments, they assert that  
14 Gemini is a key member of the Fair Deal Group.

15 In addition to the objections, the Court  
16 considered the following pleadings. The Debtor's reply at  
17 ECF Number 662, the statement in support and reservation of  
18 rights of the Official Committee of Unsecured Creditors at  
19 ECF Number 654. Of course this all happens with the  
20 background of the order signed on June 21, 2023 that granted  
21 the Debtor's first request for an extension of the exclusive  
22 period. See ECF Number 444. The Debtors today request an  
23 extension of 60 days for both exclusive periods.

24 So turning to the legal standard Section 1121(d)  
25 provides that a court may extend or reduce the Debtor's

1       exclusive periods for cause. See 11 USC Section 1121(d)(1).  
2       The decision to extend or reduce exclusivity is within the  
3       discretion of the court. See *In re Adelphia Communications*  
4       Corporation

5       Corporation, 336 B.R. 610 at 674 (Bankr. S.D.N.Y. 2006).  
6       The burden of proving cause to reduce or increase  
7       exclusivity is on the Debtor. See *In re Borders Group,*  
8       Inc.

9       , 460 B.R. 818, 822 (Bankr. S.D.N.Y. 2011).

10                   So while "cause" for the extension of exclusivity  
11       is not determined -- is not defined in the bankruptcy code,  
12       several factors are enumerated in the case law particularly  
13       by Judge Gerber in the Adelphia case at 336 B.R. at 674.  
14       And then include, one, the size and complexity of the case;  
15       two, the necessity of sufficient time to permit the Debtors  
16       to negotiate a plan of reorganization and provide adequate  
17       information to allow a Creditor to determine whether to  
18       accept such plan; three, the existence of good faith  
19       progress towards reorganization; four, the fact that  
20       Debtor's paying its bills, they become due; five, whether a  
21       Debtor has demonstrated reasonable prospects for filing a  
22       viable plan; six, whether the Debtor has made progress in  
23       negotiations with its Creditors; seven the amount of time  
24       which has elapsed in the case; eight, whether the Debtor is  
25       seeking an extension of exclusivity in order to pressure  
            Creditors to submit to its organization demands; and nine,  
            whether an unresolved contingency exists.

1                   The decision whether to extend exclusivity is a  
2 fact-specific inquiry, as Judge Glenn explained in the  
3 Borders case 460 B.R. at 822. So in applying all these  
4 standards here, the Court finds that an extension of  
5 exclusivity is appropriate for 30 days. In reaching that  
6 conclusion, the Court can share some comments on some of the  
7 relevant factors.

8                   So, first, the size and complexity of the case.  
9 One objector said that this is not a complex case. That,  
10 wrong. The Debtors' cases are both large and complex.  
11 Billions of dollars in assets and liabilities that need to be  
12 restructured. The Debtors' business operates in the digital  
13 asset industry, which has experienced unprecedented upheaval  
14 in current market conditions as well as an evolving  
15 regulatory regime. Digital assets involve novel issues,  
16 such as intercreditor issues relating to claims, and a  
17 number of complex issues must be addressed with respect to  
18 the claims of FTX and Three Arrows. And there are also  
19 outstanding issues relating to obviously the parent DCG. So  
20 they clearly are large and complex.

21                   As for the necessity of sufficient time, the  
22 second factor, these cases were filed in January of 2023.  
23 As everyone's pleadings made clear, there has been  
24 substantial activity in the cases. The last extension of  
25 exclusivity was granted. The Debtors in FTX were engaged in

1 significant litigation facing off in FTX's motion to lift  
2 the automatic stay in the Debtors' responsive motion to  
3 estimate the claims of FTX.

4 After several hearings on those matters, matters  
5 that everyone agreed were critical to the cases, the debtors  
6 reached an agreement in principle with FTX to resolve those  
7 issues and we had discussions even at today's hearing about  
8 the pathway forward to have that settlement put on for a  
9 hearing.

10 And so, obviously we've spent a lot of time today  
11 talking about the debtors' reported agreement with  
12 (indiscernible) DCG and given the recency of these  
13 developments the debtors now seek additional time to work on  
14 definitive documentation as well as to negotiate the terms  
15 of any resulting planned solicitation process confirmation.  
16 It's also clear from the tenor of comments here by everyone  
17 that I don't think anyone thinks that deal is fully baked,  
18 whether I'm listening to the Committee or even listening to  
19 -- reading between the lines of Mr. O'Neal's comments.

20 So, in the context of exclusivity extensions, the  
21 Court is well aware that the alternative here, that is, a  
22 battle of competing plans, can under certain circumstances  
23 "jeopardize current fragile agreements between various  
24 stakeholders, reignite creditor/intercreditor disputes, and  
25 push the process back to square one, dragging out the

1 solicitation process and subjecting the state to substantial  
2 extra costs that might otherwise be avoided. See 'in re  
3 Adelphi Communications Corporation 352 B.R. 578 and 590,  
4 Bankruptcy Southern District of New York 2006.'"

5 So, again, a lot of these factors overlap, so  
6 you'll hear some of the same things discussed. As for the  
7 existence of good faith progress towards reorganization, one  
8 objector said there's been no progress and that's nonsense.  
9 There has been progress. There's various plans of  
10 reorganization filed. There was a restructured term sheet  
11 that was filed. That later died on the vine. There was a  
12 court-ordered mediation process that included lots of  
13 parties, and there have been various agreements reached in  
14 principle with FTX as well as with DCG. So, the primary  
15 focus of the objector's arguments is their unhappiness with  
16 the proposed deal struck by the debtors with (indiscernible)  
17 DCG. The objectors say it doesn't represent progress at  
18 all, but instead represents a step backwards. They contend  
19 the settlement with FTX was struck to obtain votes necessary  
20 for the plan and complain the FTX claim was overly inflated,  
21 leading to a settlement amount that is too high.

22 But the Committee has made it clear that they've  
23 done an extensive assessment of all the available options in  
24 the claims against both FTX and against the parent, and that  
25 they believe that the current agreement in principles

1       between the debtors, the Committee and DCG, as well as FTX,  
2       appear to be better than the alternatives in that they can  
3       provide a path forward if further progress can be made.

4                  And the Committee has determined that the deal --  
5       these deals can provide -- let me make it clear that these  
6       deals as opposed to all-out thermonuclear war in the form of  
7       full-blown litigation can provide more certain recovery to  
8       creditors and can reduce bankruptcy risk by providing the  
9       debtors and ultimately their creditors with a first lien  
10      security interest in DGC's assets, something these states  
11      don't currently have. Didn't have under the February terms  
12      sheet and wouldn't have in a litigation scenario. The deal  
13      as contemplated also supports in-kind recoveries by  
14      denominating portions of the new debts, Bitcoin and  
15      Ethereum, something that the February term sheet didn't  
16      provide and the litigation path also doesn't provide. See  
17      the Committee's statement in support of exclusivity at Page  
18      3.

19                  So, it is clear that the debtors have -- they've  
20      stated, and it's true, that they'll need to continue to  
21      engage the constituencies in addressing outstanding issues  
22      of all kinds. That's what the case is for. In addition,  
23      the Court notes that to the extent the objections rise or  
24      fall on the merits of the settlement, the Court can't  
25      determine the merits of the settlement today. They're

1 actually not on for my consideration. The settlements must  
2 be addressed separately in the context of Rule 9019 or  
3 through voting on a plan proposed. Obviously, steps have  
4 already been taken in this regard. The Ad Hoc Committee has  
5 filed pre-requests and issues are being litigated in due  
6 course.

7 So, I am mindful the objectors have said the  
8 debtors have essentially squandered their opportunities, but  
9 there's a real risk that denial of the motion at this time  
10 will lead to a creditor free-for-all with the resulting  
11 chaos leading to liquidation, and the Committee has made it  
12 very clear in its role as a fiduciary that that is a result  
13 to be avoided, and that may be the one thing that all  
14 parties agree upon. So, turning to other factors, the  
15 debtors are in fact paying their bills as they come due. No  
16 one has argued to the contrary.

17 As to whether the debtors demonstrated reasonable  
18 prospect for filing a viable plan, again, the debtors are  
19 continuing to negotiate with the constituencies on resolving  
20 objections, and for purposes of extending exclusivities, the  
21 debtor need only demonstrate a reasonable prospect for  
22 filing a viable plan -- see in re Adelphi at 352 B.R. 589 --  
23 and this requires only a debtor be able to obtain  
24 confirmation of at least some viable plan, not necessarily  
25 the plan currently proposed. And relatedly, (indiscernible)

1 with the plan is not one of the enumerated factors and not a  
2 basis for terminating exclusivity, nor (indiscernible)  
3 creditor constituency unhappiness with the debtors' planned  
4 proposals. See Adelphi at 352 B.R. 587.

5 So, turning to whether the debtors made progress  
6 in negotiations with creditors, again, there's been a  
7 reference to agreements in principle that may serve as a  
8 path forward if further progress can be made. Certainly,  
9 the Court recognizes that the three objectors represent  
10 pager constituencies in these cases and by their objections  
11 they've made very clear their unhappiness with the state of  
12 these cases, and of course unhappiness is regrettably part  
13 of the bankruptcy process, as business entities only file  
14 when the status quo is no longer sustainable. Bad news and  
15 unhappiness follow, but once bankruptcy is filed, folks need  
16 to avoid measuring their unhappiness by the promise of  
17 possibilities and deals that may exist before bankruptcy.  
18 Instead, they need to look at the new economic realities  
19 revealed by the bankruptcy process and measure when it's  
20 possible against these new realities.

21 And as for the debtors' part, they seek by asking  
22 for further exclusivity to be in control of any settlement  
23 with the parent and the timing of the plan. Of course, in  
24 assuming that mantle, the debtors are acting as a fiduciary  
25 of the estate and together with the other fiduciary, the

1       UCC, it's imperative that they act in a way to inspire  
2       confidence so as to gain the votes for (indiscernible).

3                     So, turning to the amount of time that's elapsed  
4       in the case, this is only the second request for an  
5       extension of exclusivity. The case is not yet a year old,  
6       and there has been significant activity. For anyone who  
7       thinks the case -- disagrees with that, I ask you to look at  
8       the state of affairs in all the other cryptocurrency cases.  
9       There is no magic bullet for any of these cases. They are  
10      all struggling with very difficult and complex issues, both  
11      individually and in the context of the larger industry.

12                  So, turning to the other factor, where the debtor  
13      is seeking an extension of exclusivity to pressure creditors  
14      to submit to its reorganization demands, and certainly this  
15      is an allegation essentially made by the objecting parties.  
16      Of course the debtors don't agree and point to their  
17      continuing negotiations with parties in the case, including  
18      the objecting parties, and in the end it's impossible for  
19      the Court to determine at this point who's correct in this  
20      particular debate because doing so would require the Court  
21      to determine the merits of substantive issues such as the  
22      debtors' proposed settlement with FTX and the debtors'  
23      proposed settlement with the parent DGC. Each of those is a  
24      significant and weighty issue in its own right, the merits  
25      of which are not before the Court today and cannot be

1 appropriately resolved as part of this exclusivity motion.  
2 The parties still have an opportunity to litigate -- object  
3 to and litigate the merits of each of those settlements and  
4 any others that the debtors may reach, but that is not for  
5 today.

6 Of course, the Court is mindful that the so-called  
7 "fair deal group" objection makes reference to another  
8 potential avenue for resolution in these cases, which is  
9 presented in broad strokes, subject to due diligence. As  
10 with any other case, the parties in interest and courts  
11 always pay close attention when someone has the courage of  
12 their convictions by putting their own money on the line.  
13 This case is no different. So, if the fair deal group has  
14 an economic proposal to make, they should make it, and then  
15 the debtors and the UCC in their capacity as state  
16 fiduciaries will evaluate that proposal as they are required  
17 to do with other stakeholders no doubt weighting in as well.

18 And last factor in whether an unresolved  
19 contingency exists -- there are plenty of unresolved  
20 contingencies in this case, resolution of various claims,  
21 both of FTX and Three Arrow, which will require further  
22 progress. So, in granting this extension for 30 days, I  
23 agree that the UCC is correct in characterizing an  
24 exclusivity hearing as something that can be a useful  
25 measure of progress in a case by taking the temperature of

1 interested parties as to how things are going. But in  
2 listening to the presentation of the parties today, it is  
3 also crucial to note that exclusivity can be used as a  
4 weapon wielded by parties. This is true both by an estate  
5 that wishes to control the narrative or by objectors who can  
6 stand in the way of an appropriate global resolution to  
7 further their own (indiscernible) ends, and in such a  
8 weapon, exclusivity or an exclusivity objection can be a  
9 means to thwart progress and derail negotiations that need  
10 to occur.

11 So, I urge all parties to reject such a  
12 weaponization here and focus on improving the economics of  
13 deals that will allow the case to go forward and that are  
14 far, far better results than liquidation, which is a result  
15 that all wish to avoid. So, that's the Court's ruling on  
16 the exclusivity motion. I'd ask that the debtors submit a  
17 proposed order to memorialize the grant of the extension,  
18 and I'll so order the record today so that that is a done  
19 deal. So, it's 30 days, and frankly, I think at this point  
20 there does need to be urgency injected into this time. This  
21 is not a bottle of fine wine. Time is not on anyone's side  
22 and it needs to have velocity to get done. It's either  
23 going to go get done or not get done, and I don't think 30  
24 days or 60 days is frankly going to make any difference.  
25 And of course, we'll see where the case is at the end of the

1       30 days and assess where things are, and everybody retains  
2       all their rights under the Bankruptcy Code, including the  
3       provision about exclusivity extensions or requests to  
4       shorten exclusivity. But that's the Court's ruling on the  
5       pending motion.

6                     So, with that, Mr. O'Neal, I turn the virtual  
7       podium back over to you. I believe the only thing that we  
8       have left is attorneys' fees.

9                     MR. O'NEAL: That's correct, Your Honor, and just  
10      one quick question: that's a 30-day extension for both the  
11      plan and solicitation periods?

12                  THE COURT: Correct.

13                  MR. O'NEAL: Thank you. And that's from today --  
14      for a plan, it would be from today's date, and for the  
15      solicitation, from the date that we requested?

16                  THE COURT: Yes. I believe it's -- I'm not trying  
17      to change any of the dates. I'm just trying to give you 30  
18      rather than 60.

19                  MR. O'NEAL: Gotcha. Okay.

20                  THE COURT: Yeah.

21                  MR. O'NEAL: Thank you. And I think --

22                  THE COURT: All right.

23                  MR. O'NEAL: My colleague, Ms. VanLare, will  
24      handle (indiscernible)

25                  THE COURT: All right. Give me just one second.

1 I have notes on another pad that has disappeared on me --  
2 but I will deal with that separately, so Ms. Vanlare, take  
3 it away.

4 MS. VANLARE: Thank you, Your Honor, and actually,  
5 before I get into the fee applications, I just wanted to go  
6 back to the FTX status conference matter for a brief moment.  
7 Your Honor kindly offered September 18th as the hearing date  
8 for the evidentiary hearing. We did have a chance to confer  
9 with our client and we are available and able to proceed on  
10 that date if that works for Your Honor.

11 THE COURT: All right. That would be fine. So,  
12 let's say 10 o'clock, and what I'd appreciate is just -- as  
13 you get closer just a sense of any updates on what you  
14 expect a hearing to consist of, just so that everybody's on  
15 the same page. It sounds like based on what you said we  
16 have one witness whose declaration would be used as their  
17 written direct, so you'd make them available for cross-  
18 examination and any redirect, and that -- it's that -- an  
19 argument to the extent it's different than that, it would be  
20 helpful to just have an idea.

21 In the what seems likely event that it wouldn't  
22 get done that day, I think we'd reach the conclusion of the  
23 day and then pick another day to finish, but certainly I  
24 just -- I want to make sure nobody's surprised about what  
25 the process looks like.

1 MS. VANLARE: Of course, Your Honor. We will do  
2 that.

3 THE COURT: All right, thank you.

4 MS. VANLARE: So, now --

5 THE COURT: All right. Take it away.

6 MS. VANLARE: So, the last items on the agenda  
7 relate to the various professional fee applications. I will  
8 address the ones relating to the debtors' advisors, and then  
9 I will let White & Case address the applications for the  
10 Committee advisors.

11 So, first, Your Honor, the application of Cleary  
12 Gottlieb Steen & Hamilton. This is the first interim fee  
13 application, filed at Docket No. 529. Your Honor, the  
14 application received no objections and I believe it's  
15 uncontested. We did receive comments from the office of the  
16 United States Trustee and following some discussions with  
17 the US Trustee, we agreed to reduce our fee request by  
18 approximately \$73,000 and our expenses by approximately  
19 \$6,500. And so, the revised amounts are reflected on the  
20 revised proposed order, which we have filed on the docket  
21 and will of course provide to your chambers. We will also  
22 share that proposed order with the US Trustee.

23 So, Your Honor, I'm happy to answer questions, but  
24 would request that Your Honor enter an order approving our  
25 application.

1                   THE COURT: All right. Thank you very much. So,  
2 let me ask -- I see the US Trustee's Office on the line, so  
3 I'll ask them first if they have any comments.

4                   MR. ZIPES: Your Honor, Greg Zipes with the US  
5 Trustee's Office. Ms. VanLare's statements do reflect our  
6 agreement regarding reductions. My office did go through  
7 the fee applications of all the professionals and we have  
8 asked for reductions or explanations. You'll probably hear  
9 more of these statements about reductions. These are  
10 interim fees, so there's a certain -- without getting into  
11 too many details, Your Honor, but there are certain time  
12 records that can't really be reviewed at the moment because  
13 they're redacted or they're subject to ongoing litigation,  
14 and my office is reserving its rights generally to reject  
15 the fees at the end of the case.

16                  THE COURT: All right, thank you very much. Any  
17 other party that wishes to be heard on the fee application  
18 of debtor's counsel? All right. Given my review of the fee  
19 application here, I am satisfied that the fees that have  
20 been requested are appropriate for the granting of interim  
21 compensation and will grant that interim compensation here,  
22 subject to a holdback -- the traditional holdback that I  
23 have in all cases of 20 percent, which really reflects the  
24 uncertainty of cases, and so we can move on to the next  
25 application.

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1 MS. VANLARE: Thank you, Your Honor. Next we have  
2 the application of Moelis & Company. This was filed at  
3 Docket No. 516. Similarly, it is uncontested. It does  
4 reflect comments received by the -- received from the US  
5 Trustee's Office, and the proposed revised order we  
6 submitted does reflect a reduction of \$2,970, and so with  
7 that, Your Honor, we request that you enter an order  
8 approving that application.

9 THE COURT: All right. Mr. Zipes, anything from  
10 your office?

11 MR. ZIPES: No, Your Honor. We did review this  
12 fee application, as stated, and we have a reduction in  
13 expenses.

14 THE COURT: All right, thank you very much. Any  
15 other party wish to be heard on this application? All  
16 right. Hearing no objection, I am happy to approve the most  
17 up-to-date version of this application as appropriate under  
18 the facts and circumstances of the case and applicable law.  
19 Next up, Ms. VanLare?

20 MS. VANLARE: Next, Your Honor, we have the  
21 Alvarez & Marsal first interim fee application. This is  
22 Docket No. 529. Alvarez & Marsal serves as financial  
23 advisor for the debtors. This application is uncontested,  
24 and similarly, the proposed revised order reflects certain  
25 reductions that were made following comments received from

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1 the Office of the US Trustee. So, with that, Your Honor, we  
2 ask that you enter an order approving the application.

3 THE COURT: All right. Mr. Zipes, anything from  
4 your office?

5 MR. ZIPES: Nothing further, Your Honor.

6 THE COURT: All right, thank you. Any other party  
7 that wishes to be heard? All right. I have the same ruling  
8 on this application that based on the facts and  
9 circumstances it's appropriate to approve this interim fee  
10 application, given the work being done in this case and that  
11 it's consistent with applicable law. So, next up?

12 MS. VANLARE: Next, Your Honor, we have the M3  
13 first interim fee application, filed at Docket No. 524. M3  
14 Advisory Partners was appointed as a financial advisor to  
15 assist the debtors in connection with the FTX matter due to  
16 a conflict that Alvarez & Marsal has. The M3 application is  
17 also uncontested. M3 agreed to reduce their fees by \$605  
18 following comments received from the Office of the US  
19 Trustee. With that, Your Honor, we ask that you enter an  
20 order approving that application.

21 THE COURT: All right. Mr. Zipes, anything from  
22 your office?

23 MR. ZIPES: Nothing, Your Honor. Thank you.

24 THE COURT: All right, thank you very much.

25 Anything from any other party on this application? All

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1 right, hearing nothing, I will approve this application on  
2 an interim basis as appropriate under the facts and  
3 circumstances of the case and applicable law, and obviously,  
4 it's important to retain this party for work for which there  
5 is a conflict. Next up?

6 MS. VANLARE: Your Honor, next we've got the  
7 application of Morrison Cohen, filed at Docket No. 522.  
8 Morrison Cohen is debtors' enforcement and special  
9 litigation counsel. Following the comments received from  
10 the US Trustee, Morrison Cohen agreed to reduce their  
11 request by approximately -- by \$2,790. With those comments,  
12 we believe that the US Trustee has no objection to Morrison  
13 Cohen's fee application and no objections have been filed on  
14 the docket, so with that, Your Honor, we ask that you enter  
15 an order approving Morrison Cohen's first interim fee  
16 application.

17 THE COURT: All right. Mr. Zipes, anything from  
18 your office?

19 MR. ZIPES: Your Honor, nothing further, except to  
20 note that some of the investigation work is done by Cleary  
21 and some is done by Morrison Cohen, and my office did spend  
22 some time to understand what they were doing. Some of it is  
23 not appropriate to disclose publicly, but my office has  
24 reviewed (indiscernible)

25 THE COURT: All right, thank you very much for

1       that. Anyone else who wishes to be heard on the Morrison  
2       Cohen first interim fee application?

3                    MR. ROSENBLAT: Your Honor, Heath Rosenblat of  
4       Morrison Cohen. Just to correct the record, it was a  
5       reduction of \$22,000, not \$2,000. Just want to make sure  
6       that every penny is going back to the estate that's supposed  
7       to.

8                    THE COURT: All right, thank you very much. I  
9       appreciate that update on the record.

10                  MR. ROSENBLAT: Thank you.

11                  THE COURT: All right, anyone else with a  
12       comment? All right. I -- based on my review of the  
13       application, I'm happy to review -- I'm sorry, I'm happy to  
14       approve the application as has been amended on the record  
15       here, the first interim application of Morrison Cohen, with  
16       the reduction contemplated as appropriate under the facts  
17       and circumstances of the case and applicable law. Ms.  
18       Vanlare?

19                  MS. VANLARE: Yes, Your Honor. Thank you. Just a  
20       few more remarks about some of the other advisors to the  
21       debtors. First, Kobre & Kim, as Your Honor probably  
22       recalls, was retained as conflicts counsel to the debtors.  
23       Kobre & Kim did not file an interim fee application because  
24       they have not incurred any fees in connection with the case  
25       other than preparing the retention application, and general

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1 background and getting up to speed on the case. Kobre Kim,  
2 Cleary Gottlieb and the US Trustee discussed an appropriate  
3 approach to this and concluded that it would be more cost  
4 efficient to refrain from filing additional fee statements  
5 and incurring additional fees in connection with filing an  
6 interim fee application. Kobre has agreed to waive the  
7 whole back payment until it files an interim or final fee  
8 application, and our understanding is the US Trustee  
9 consents to this approach.

10                 The debtors do wish to confirm with Your Honor  
11 that should Kobre & Kim incur fees in the future, they would  
12 be permitted to receive compensation for fees incurred going  
13 forward in accordance with the interim compensation order  
14 provided that they file a monthly fee statement and fee  
15 applications for any such future work. Kobre & Kim will  
16 also file a final fee application at the end of the case,  
17 regardless of whether any future work is done, that will  
18 cover this fee period as well as any future fees incurred.

19                 THE COURT: All right, thank you very much. Mr.  
20 Zipes, any thoughts?

21                 MR. ZIPES: Nothing further, Your Honor. We did  
22 agree to that, subject to the Court's approval.

23                 MS. VANLARE: And Your Honor --

24                 THE COURT: I'm fine with it. As it's been set  
25 forth on the record, I appreciate the transparency on the

1 issue.

2 MS. VANLARE: Thank you very much, Your Honor. We  
3 do appreciate that. And finally, I'll just note that Grant  
4 Thornton, who is debtors' tax advisor, did not file an  
5 interim fee application because they had not filed or served  
6 any monthly fee statements during the first interim fee  
7 period, and so determined again that they would hold off  
8 until they were able to file a monthly fee statement to file  
9 an interim fee application. Again, just wanted to be  
10 transparent about that.

11 THE COURT: All right, thank you very much. And I  
12 know the Committee has some professionals that we'll address  
13 in a second. I want to raise the issue -- it's not for  
14 today, but certainly I'm aware of the sizeable amount of  
15 fees that have been incurred in these cases, and that's  
16 understandable given the complex and challenging work that  
17 needs excellent counsel to do it. Today's hearing is a  
18 perfect example of that.

19 But for some time, I've been -- I guess I've noted  
20 the seemingly automatic increases in attorney fee rates,  
21 such that the top rates have undergone a large increase over  
22 the last decade. And so, at some point -- and again, it's  
23 not a today issue -- I would welcome some insight and a  
24 conversation on the issue. In particular, I'd welcome  
25 insight as to how sort of the highest rates for bankruptcy

1 work at a firm compare with the highest rates for work in  
2 other practice areas for that same firm, because obviously,  
3 clients often negotiate discounts for various work.

4 And so, it's not something that's appropriate to  
5 discuss without giving you a heads-up about it, because you  
6 need to think about it, and I'm not making any value  
7 judgments one way or the other. It's just something that  
8 is, I think, worthy of a discussion for purposes of  
9 transparency on the record, and so, we'll have that  
10 discussion at some point in the future and I welcome your  
11 thought not only on the issue but also on the timing for  
12 having that discussion.

13 So, with that, it sounds like it's time to turn to  
14 --

15 MR. ZIPES: Your Honor? I don't mean to interrupt  
16 -- I guess I do mean to interrupt. Greg Zipes with the US  
17 Trustee's Office, very briefly, because this is going very  
18 long. I just want to bring to the Court's attention the US  
19 Trustee large fee guidelines, and there are statements made  
20 by professionals both at the retention stage and at the fee  
21 application stage -- they do give an analysis of some of the  
22 points that you're making. My office does share the concern  
23 of the Court relating to hourly rates generally, but I will  
24 point out that the fee applications actually do answer  
25 questions in that regard, so --

1                   THE COURT: Yeah. No, I understand that that's in  
2 there and I appreciate you pointing it out to sort of round  
3 out the picture. You're exactly right. I guess my thought  
4 is that that's something that is the subject of discussion  
5 outside of court, but probably less so in the context of  
6 having discussions in court in approving fees and thinking  
7 about fees. So, that's why I said I'd appreciate having  
8 sort of a conversation where you can sort of share your  
9 insights sort of on a more holistic level, right, in terms  
10 of the industry. And so, that's -- but you're exactly  
11 right, Mr. Zipes, to point that out to sort of complete the  
12 picture. Thank you.

13                   All right, Mr. Abelson. I think your applications  
14 are up.

15                   MR. ABELSON: Yes, Your Honor, and thank you.  
16 Once again, Phil Abelson, White & Case, on behalf of the  
17 UCC. Your Honor, I will present three fee applications  
18 today. The first is the first interim fee application for  
19 White & Case, counsel for the Committee, which can be found  
20 at Docket No. 523. Your Honor, the application seeks  
21 compensation for fees and expenses incurred between February  
22 10th and May 31st. No objections were raised, either  
23 formally or informally, and we respectfully request that  
24 Your Honor approve the fees and expenses sought in White &  
25 Case's interim fee application.

1                   THE COURT: All right. Thank you very much. Mr.  
2 Zipes, any thoughts?

3                   MR. ZIPES: Yes. Your Honor, we did review this  
4 fee application and had no comments for the interim period.

5                   THE COURT: All right, thank you very much. Any  
6 other comments from any other party? All right. Based on  
7 the record before me and having reviewed the fee  
8 application, I'm happy to grant White & Case's first interim  
9 fee application as appropriate under the facts and  
10 circumstances of the case and applicable law, and we can  
11 move on to the next application, Mr. Abelson.

12                  MR. ABELSON: Yes, thank you, Your Honor. The  
13 next application is the first interim fee application for  
14 Berkeley Research Group, which is the financial advisor to  
15 the Committee, which can be found at Docket No. 561. This  
16 application seeks fees and expenses incurred between  
17 February 14th and May 31st. There were no objections  
18 raised, either formally or informally, other than some  
19 questions were raised by the United States Trustee's Office  
20 and that led to a reduction of \$3,060 in fees and that is  
21 reflected in the proposed order. And with that, Your Honor,  
22 we respectfully request that you approve BRG's first interim  
23 fee application.

24                  THE COURT: All right, thank you. Mr. Zipes, any  
25 comments?

1 MR. ZIPES: No, Your Honor. Thank you.

2 THE COURT: All right, thank you very much. Any  
3 other party that wishes to be heard on this fee application?  
4 All right. Based on my review of this application and all  
5 the facts and circumstances of the case, I will grant the  
6 first interim fee application as appropriate and consistent  
7 with applicable law, and I think that means we have one more  
8 from Houlihan Lokey Capital.

9 MR. ABELSON: That's correct, Your Honor, and that  
10 can be found at Docket No. 525, and this application seeks  
11 compensation for fees and expenses incurred between February  
12 12th and May 31st. Again, there were no objections raised,  
13 either formally or informally, and we ask Your Honor to  
14 approve the Houlihan Lokey interim fee application.

15 THE COURT: All right. Mr. Zipes, one more time:  
16 anything else from your office?

17 MR. ZIPES: Your Honor, no comments on this one.

18 THE COURT: All right, thank you very much. Any  
19 other party that wishes to be heard on this application?  
20 All right. Once again, hearing no responses, I will grant  
21 this first interim fee application as appropriate under the  
22 facts and circumstances of the case and applicable law, and  
23 with that, I think that's all the fee applications.

24 So, let me ask debtors' counsel if there is  
25 anything else that is on the agenda for today.

1 MS. VANLARE: We don't have anything further, Your  
2 Honor. Thank you very much.

3 THE COURT: All right, thank you very much.  
4 Anything else from any other party? All right. So, I'll  
5 wait to sort of get an update on the 18th, and I believe we  
6 have a hearing that week -- I think it's the 26th; is that  
7 right? I couldn't remember if it was the 25th or the 26th,  
8 and given the conversations today, certainly to the extent  
9 that there's anything I can do to be of use for something  
10 that's not scheduled, feel free to reach out to chambers.  
11 I'm happy to make myself available, and with that, I wish  
12 you all a good afternoon. Thanks so much.

13 MS. VANLARE: Thank you very much.

14 MR. ABELSON: Thank you, Your Honor.

15 (Whereupon these proceedings were concluded at  
16 5:25 PM)

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2

3 I, Sonya Ledanski Hyde, certified that the foregoing  
4 transcript is a true and accurate record of the proceedings.

5

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Sonya M. Ledanski Hyde

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8 Sonya Ledanski Hyde

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